

Liia Laanes

**FROM DESTRUCTION TO
DEMOCRATIC REVIVAL:**

Local government in Estonia



Academic dissertation

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ABSTRACT

Institutions are shaped by history. Hence, in order to understand why local government institutions in Estonia were designed the way they were at the beginning of the 1990s after the collapse of communism, we should take into account both the history and the context of that time. To this end, the current thesis aims to analyse the re-establishment of local government in Estonia in the 1990s in the light of the past. For this purpose, a historical institutionalist approach is applied, with a particular focus on a path dependence and legacies framework.

The interwar local government in Estonia was based on the structure created during the Russian era. Despite numerous legislative proposals, the special laws on local government were only enacted in 1937/38 under authoritarianism. During the communist period, the system used in the other Soviet republics was introduced in Estonia and local government became a state authority. The rebuilding of democratic local government in Estonia started at the end of the 1980s, not so much based on the interwar legislation on local government, but rather on the idea of interwar democratic local government. For some of the facets of local government institutions, the path had already been paved a century ago or earlier, making some choices in the post-communist period more likely while simultaneously reducing other available alternatives. The communist legacy of incomplete nation-building was a focal point for many parliamentary debates at the beginning of the 1990s, with the result that in some cases less attention was paid to other details in the legislative process.

The thesis concludes that both interwar and communist legacies can help in explaining some of the institutional choices made at the beginning of the 1990s in Estonia. It proposes that the legacies explanation can prove useful in the historical institutionalist approach. Furthermore, when it comes to path dependence, it demonstrates that interdependent institutions can be more path dependent than procedural institutions.

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All errors or omissions in the thesis remain my own.

Liia Laanes
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CONTENTS

Abstract.....	3
Acknowledgements.....	5
List of tables and figures	10
Abbreviations.....	11
1 Introduction.....	13
1.1 Background and rationale for the topic.....	13
1.2 Research aim and structure of the thesis	14
2 Local government and decentralisation	17
2.1 Local government and its values – democracy and autonomy	17
2.2 Democratisation.....	20
2.2.1 The transition to democracy at the state level.....	20
2.2.2 The impact of legacies	22
2.2.3 Decentralisation and democratisation at the local level	26
2.3 Local government in post-communist countries	31
3 Analytical framework and methodology	37
3.1 Historical institutionalism.....	37
3.1.1 The main concepts – path dependence and critical junctures	38
3.1.2 Gradual change and resurrection of the past	42
3.1.3 Historical institutionalism and case studies	46
3.1.4 Some remarks on rational choice institutionalism	47
3.2 Research methods and data.....	48
4 Local government in 1918–1940: The periods of the Parliamentary Republic and the Era of Silence.....	50
4.1 General context	51

4.1.1	Development of the legal framework	53
4.1.2	The rise and fall of county government	59
4.2	Local autonomy.....	64
4.2.1	Supervision	65
4.2.2	Local government finances	67
4.3	Local democracy and local government bodies	74
4.3.1	Constantly changing electoral rules.....	74
4.3.2	The appointed mayor	86
4.4	Discussion and conclusion	92
5	Abolishment of local self-government	96
5.1	General context	97
5.1.1	Local administration in the Soviet Union	98
5.1.2	Short period of German occupation	100
5.2	The sharp end of the old system	101
5.2.1	People.....	102
5.2.2	Abolishment of counties and rural municipalities	106
5.2.3	Establishment of local soviets.....	109
5.3	Local administration at the beginning of the 1980s	114
5.3.1	Administrative-territorial units	115
5.3.2	Local soviets	116
5.4	Discussion and conclusion	122
6	Democratic revival at the local level.....	125
6.1	General context	125
6.2	Development of the legal framework for local government and for administrative reform	127
6.3	Decentralisation.....	136
6.3.1	The issue of the county level.....	136

6.3.2	The process of granting self-governing status to local government units.....	140
6.3.3	Administrative territorial units – Partial survivors of the Soviet era.....	142
6.3.4	Attempts at territorial reform.....	144
6.3.5	Some remarks on financial autonomy	148
6.4	Local democracy and local government bodies.....	150
6.4.1	Local elections and debates on dual mandate and electoral alliances.....	151
6.4.2	The institution of mayor	159
6.5	Discussion and conclusion.....	166
7	History rhymes	169
7.1	County administration	172
7.1.1	The role of legacies during critical junctures in the 1990s	173
7.1.2	Initial weakening of county government sets path for decades.....	175
7.2	The appointed mayor	178
7.2.1	Widely used practice obscures legacy	178
7.2.2	Path enforced by context or legal path dependence	179
7.3	Election rules in political winds.....	181
7.3.1	Legacy of incomplete nation-building commandeers the parliamentary debate in the 1990s.....	181
7.3.2	Limited path dependence	183
7.4	Development of central-local relations from the standpoint of continuity	185
7.4.1	Tendency towards a Northern European system	186
7.4.2	The role of (cultural) values	188
7.4.3	Additional aspects	190
7.5	Discussion and conclusion.....	190

8	Conclusions and recommendations	195
	References	200
	Appendix A: Counties (13 th century, 1918, 1939, 1949, and 1991) and raions (1950, 1965, and 1987)	231
	Appendix B: Financial indicators.....	233
	Appendix C: Overview of the election rules	237
	Appendix D: List of Prime Ministers and Ministers of the Interior	241
	Appendix E: Information on the interviews	243

LIST OF TABLES AND FIGURES

Tables

Table 3.1	Critical juncture framework
Table 4.1	Rural municipalities by size (number of inhabitants)
Table 4.2	Selected indicators of horizontal power relations
Table 5.1	Counties/raions, rural municipalities/village soviets, and towns, 1939–1986
Table 5.2	Renewal of the composition of soviets in Estonian SSR
Table 6.1	County governance patterns and the main legal act
Table 6.2	Number of local government units to which the self-governing status was granted
Table 6.3	Administrative units in selected years during 1922–2018
Table 6.4	Selected indicators of local elections 1993–2013
Table 6.5	Local electoral candidates by political formation
Table 7.1	Summary of patterns of county governance in Estonia
Table 7.2	Selected indicators of horizontal power relations
Table 7.3	Local election principles in the Constitution
Table 7.4	Estonian local government in the North-South typology
Table 7.5	Summary of selected institutions

Figures

Figure 2.1	Functional allocation, discretion and access in the local government systems of Western Europe
Figure 3.1	Path-dependence explanation
Figure 3.2	Permissive and productive conditions and outcomes
Figure 3.3	Types of institutional change: processes and results
Figure 4.1	Local government and state expenditure as a percentage of GDP, 1923–1936/37
Figure 5.1	Structure of city soviet
Figure 6.1	Borders of counties (1938) and raions (1986)
Figure 6.2	Local government and state expenditure as a percentage of GDP, 1996–2016
Figure 7.1	Path-dependent explanation of the development of county government in the interwar and post-communist periods
Figure 7.2	Path-dependent explanation of citizen electoral alliances

ABBREVIATIONS

CEA	Citizen electoral alliance
CPSU	Communist Party of the Soviet Union
CRC	Constitutional Review Chamber of the Supreme Court of Estonia
ELGA	Draft of Estonian Local Government Act of 1920
ESSR	Estonian Soviet Socialist Republic
HI	Historical institutionalism
LGFA	Local Government Fundamentals Act of 1989
LGOA	Local Government Organisation Act of 1993
MP	Member of Parliament
RCI	Rational-choice institutionalism
RSFSR	Russian Soviet Federative Socialist Republic
SSR	Soviet socialist republic
USSR	Union of Soviet Socialist Republics

1 INTRODUCTION

1.1 BACKGROUND AND RATIONALE FOR THE TOPIC

After the collapse of communism, different countries have followed different paths in the transition to democracy. One possible explanation for this is that history matters and past legacies influence the path of democratisation (e.g. Ekiert & Hanson, 2003a; Stanger, 2002; Nunberg, 1999; Zweynert & Goldschmidt, 2005). This conclusion is nothing new in the research on the post-communist transformation in Central and Eastern Europe as the historical institutional approach has been used in democratisation studies in general since the 1970s, but ‘much work remains to be done to build firmer theoretical foundations linking the two fields’ (Barrenechea, Gibson, & Terrie, 2016). The processes and outcomes of democratisation in different Central and Eastern European countries have diverged and therefore it is not possible to generalise, especially since out of all the Soviet republics, Estonia and Latvia had the most substantial prior experience of democratic politics (Linz & Stepan, 1996, pp. 402–403).

Democratisation did not only take place at the state level – although the majority of the research into democratisation has focused on this area – but the transformation also occurred at the local government level in that there was a need to rebuild the local self-government that the Soviet powers had destroyed. Confining studies to national democracy alone would be inadequate because ‘subnational democracy cannot be simply deducted from the patterns of national democracy’ (Hendriks, Loughlin, & Lidström, 2011, p. 728). Clark noted in 2002 that local government is, in fact, an underdeveloped research area in post-communist studies and democratic consolidation, due in part to the ‘rather negative view of the role of local government in democracy’ (Clark, 2002, p. 56). Since then, there has been some research into the topic (see King, Vanags, Vilka, & McNabb, 2004; Soós & Zentai, 2005), but fewer attempts to connect the developments of the 1990s with the past (e.g. with the interwar period).

It has been argued that ‘history should be read “forward” and not “backward”’ in democratisation studies (Capoccia & Ziblatt, 2010, p. 939), because it allows us to identify more variables in action during the foundational moments of specific democratic institutions. Ekiert and Ziblatt argue that the post-1989 developments reflect both pre-communist and communist legacies in institutional choices – ‘not a single country in the region, for example, departed from the form of government and electoral institutions it established during the first episode of democratization in the post-World War I period’ (2013, p. 102).

When it comes to Estonia’s case, local government played a remarkable role in establishing Estonia’s independence in 1918, and restoring it in 1991. In

addition, efforts to build government at the local level got underway on both occasions even before official independence was gained. We cannot talk about local self-government as such in Estonia during the Soviet period, but this does not preclude the possibility that certain elements of local government have survived for a century. This issue warrants further study. On the one hand, there is currently a lack of comprehensive analysis on the revival of democratic institutions in Estonia at the local level and on the legacies of the interwar (or the first republic) and Soviet periods. On the other hand, endeavouring to connect the developments of the 1990s at the local level with the Soviet period and the pre-communist period could help to explain the developments that took place during that decade, and contribute at the same time to research into Estonian local government and its history.¹ Hence the original contribution of this thesis to the body of knowledge on this subject is twofold. First, it *approaches certain elements of Estonian local government during the interwar and current period from a new angle*; second, it *enriches the research on the post-communist transformation at the local level by means of a case in which there was prior experience of democratic local self-government during the interwar period*. The latter is also relevant in the context of comparative institutional analysis, a central issue of which concerns ‘why institutions are set up as they are’ (Stoker, 2008, p. 501), especially because opinions on the explanatory power of path dependence vary when it comes to the divergence of local government systems.

Although the title of the dissertation is *From Destruction to Democratic Revival*, it delves further back in time than the title indicates. In order to reflect on revival, we also have to study what was destroyed and what, if anything, has been resurrected.

1.2 RESEARCH AIM AND STRUCTURE OF THE THESIS

The aim of the thesis is to examine the developments in the local government system in Estonia since 1918, with an emphasis on the 1990s, and consequently to identify among the limited number of institutions those which appear to conform to the expectations of path dependence and those which do not; and to propose explanations for the presence of path dependence or for the lack thereof. As such, the thesis is a comparative historical analysis of these institutions and the way in which they have changed. The case explored is limited in time and also in the topics covered. The periods covered are from 1918 to the 1950s, and from the 1980s to today. The English term *local government* conveys concepts both of local democracy (elections, councils, mayors, status) and of local administration (running public services)

¹ In 2009, Sulev Mäeltsees (2009) claimed that the restoration of local self-government and its position in the re-establishment of the independence of Estonia has remained under-researched to date, and that its role has even been underestimated in that process and stage of history.

(Coulson, 1995, p. 1). Of the two concepts, local democracy will be dealt with in more depth than local administration since there is a need to limit the scope.

In the case of Estonia, the period from 1934 to 1940 can be classified in different ways. On the one hand, authoritarianism began in 1934 and hence these years could be associated with communism under the ‘authoritarianism’ label, as Wittenberg (2013, p. 10) has proposed. On the other hand, this was the period when Estonia finally adopted its own local government legislation, which was therefore referred to during the post-communist period. The latter is the main reason why this dissertation uses the terms pre-communist or interwar period, communist, and post-communist period.

The main research question addresses the issue of whether we can talk about continuity in the case of Estonian local government (or the rebirth of the interwar local government system), or whether we should talk about a totally new local government system in Estonia after 1989. The three subsidiary questions that the thesis attempts to answer are consequently:

- 1) *Which aspects of local government institutions in Estonia have exhibited the strongest path dependence, and in which institutions has this been weak or missing, and why?*
- 2) *What was the role of interwar legacies in the critical junctures and institutional choices of the post-communist period?*
- 3) *What are the similarities and differences between the development of central-local relations in the two periods of independence?*

As the thesis is motivated by the puzzle related to the (re-)establishment of local government in the 1990s, and hence decentralisation and democratisation, the main formal institutions that will be dealt with are county government, local election rules, and the institution of the city/rural municipality mayor. In addition, in order to contextualise the issue more clearly and to answer the *why* part of the research question, the analysis will also cover the development of legislation and administrative units as well as territorial division.

The thesis is divided into eight chapters. The second chapter discusses the main concepts and theories related to local government, local democracy, democratisation, and legacies. It also demonstrates why the Estonian case is unique. The third chapter deals with historical institutionalism as an analytical framework, and the methods employed. Chapters four to six focus on the three periods in the history of local government in Estonia – the era of the first republic or interwar period (1918–1940, years of local self-government), the Soviet period (selected years from 1940–1989, the destruction of local government), and Estonian re-independence (since 1989,² the revival of local government). Chapters four and six adopt a similar structure, covering the

² Although Estonia regained its independence in 1991, the relevant processes for local government started in 1989 or even in 1988.

general context, county level, local autonomy, local democracy and local government bodies, followed by a discussion. Chapter five covers only the first and last years of the Soviet period. Although the communist period can also be divided into sub-periods and contained critical junctures and various legacies, this period in Estonia will be dealt with only in part, for at least two reasons. First, it will be assumed that the communist legacies influenced only the initial years of re-independence and that these effects evaporated after some years. Second, the focus of the thesis is on those periods when local self-government actually existed. Chapter seven discusses the selected institutions with an emphasis on the periods of independence, followed by the overall findings in chapter eight.

2 LOCAL GOVERNMENT AND DECENTRALISATION

The theoretical framework of the thesis is based on local government theory, democratisation, decentralisation, and post-communist development, on the one hand, and on historical institutionalism on the other. To this end, this chapter reviews how previous research has approached decentralisation and post-communist democratisation. The first section (2.1) focuses on two of the main values of local government – autonomy and democracy. The subsequent section (2.2) deals with democratisation and decentralisation and, together with section 2.1, creates the framework for analysing local government in Estonia in Chapters 4 and 6. Section 2.3 then demonstrates why Estonia's case is an interesting one to explore within the analytical framework of historical institutionalism. Historical institutionalism itself is covered in more detail in Chapter 3.

2.1 LOCAL GOVERNMENT AND ITS VALUES – DEMOCRACY AND AUTONOMY

Local government is important in the context of transitioning from authoritarianism since local governments 'restrain the excesses of national governments and the anti-democratic tendencies of centralized power' (Smith, 1998, p. 86). On the other hand, 'the remnants of authoritarianism can equally be left over in local government' (Smith, 1998, p. 86). Local government can contribute to the overall goals of the transformation processes in several ways. Local government has the potential to actively involve citizens in making choices for a locality (Stewart, 1996), to enable more people to participate in governing (Baldersheim & Illner, 1996; Sharpe, 1970), and is a source of political education (Kjellberg, 1995). Teune claims (1995, p. 18) that the 'incentives for participation are stronger locally than nationally in that the consequences are more visible and immediate on the local level'. Political education was also put forward as an argument as early as the 19th century by John Stuart Mill (1862, p. 269):

But in the case of local bodies, besides the function of electing, many citizens in turn have the chance of being elected, and many, either by selection or by rotation, fill one or other of the numerous local executive offices. In these positions they have to act for public interests, as well as to think and to speak, and the thinking cannot all be done by proxy. It may be added that these local functions, not being in general sought by the higher ranks, carry down the important political education which they are the means of conferring to a much lower grade in society.

Political education is closely related to the development of (new) political elites at the local level who might gradually participate in national political life (Baldersheim & Illner, 1996). In a similar vein, Stoker (1994, p. 194) concludes that 'local government should not be defined by its task of service delivery; rather it should be valued as a site for political activity'.

The aforementioned demonstrates that there are several arguments to support the claim that local democracy is crucial to the process of democratic transition and consolidation at the national level. Although it has been argued that there is a lack of hard evidence to support the conviction that local democracy is a necessary condition for a viable democratic polity (see Pratchett, 2004; Smith, 1998), there is even less evidence to substantiate claims to the contrary.

Next we should attempt to define local government and present the criteria that have to be met in order to talk about local government as local *self-government*. Local government is an institutional realisation of local democracy and a relevant building block of a democratic state. It 'divides power and provides an alternative source of authority to the central state' (Leigh, 2000, p. 7). Based on the European Charter of Local Self-Government, the concept 'denotes *the right and the ability* of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population' (1985; emphasis added); in addition, the Charter foresees that council members should be elected. This definition reflects the values of local government, namely democracy or participation, efficiency, and autonomy. Kjellberg admits that these values are ideals, but without these three ideals the 'purpose and very legitimacy of the institution of local government will have to be questioned' (1995, p. 44).

Similarly, Baldersheim and Illner (1996, pp. 1–2) have used democracy (popular participation and relations between citizens and elites), efficiency (capacities for problem solving and service delivery), and autonomy ('relationships between local and central government and the scope of discretion left for the local authority') to evaluate local government reforms in post-communist countries. According to the efficiency argument, the elected and politically responsible bodies at the local level have better knowledge of local issues and can transform these into actions more effectively than the central administrative agencies can (Kjellberg, 1995, p. 44).

In relation to these three values, the focus of the thesis will be on democracy and autonomy. Efficiency, involving the capacity of service delivery, would require analysing several policy areas in order to draw any conclusions, and hence it has been omitted from the scope of the thesis.

Democracy is an ambiguous term. There are any number of different definitions, but there is a consensus that the presence of competitive elections is one of its key elements. Schumpeter (1994, p. 250) offers the following minimalist definition: 'the democratic method is that institutional arrangement for arriving at political decisions which realizes the common

good by making the people itself decide issues through the election of individuals who are to assemble in order to carry out its will'. This applies to both the national and local levels. 'If democracy is to take root in the long run, then democratic political developments will have to occur at the local level' (Teune, 1995, p. 23). Among 'the factors that support democracy at the sub-national level' are representative government, administrative capacity, legitimacy of local structures, ethos of democracy, and involvement of civil society (Smith, 1998, pp. 88–91).

Gábor Soós (2006, pp. 8–9) argues that while a democratic audit involves criteria such as a guaranteed framework of equal rights, institutions of representative government, institutions of open and accountable government, and a civil or democratic society, the 'assessment of local democracy requires two other dimensions'. These are (legal, political, and financial) autonomy and effectiveness. 'In sum, local democracy is conceptualised as autonomous, effective, open, and representative local government surrounded by a civil society in the framework of guaranteed political rights' (Soós, 2006, p. 9). Pratchett (2004, p. 361) concludes that 'without some form of local democracy, the opportunities for developing democratic values and skills that can be used at broader institutional levels would be severely limited'. This brings us back to the aforementioned relevance of the local level for the political education that Mill (1862) emphasised.

Local autonomy is 'linked to both the theory and practice of democracy' and is 'rarely distinguished from local democracy', although the two terms should be distinguished (Pratchett, 2004, p. 358). Democratic local governments must have autonomy (Teune, 1995, p. 14). Local autonomy is 'primarily a question of responsibilities, resources and discretion' (Davey, 1971, p. 45). If local administrative units have no legal, political, and financial autonomy, the term local (self-)government loses its meaning (Soós, 2006, p. 9). Irrespective of how autonomous local government is, 'it presumes one or several institutional levels to which it is subordinated' (Kjellberg, 1995, p. 45). This indicates that both the powers and structure of local government are inevitably subject to legislation set by a higher level. Goldsmith and Page argued in 1987 that 'the position of local governments in a country's system of government was a reflection of the functions they performed, the discretion they had in performing these functions, and the access or influence that they had in policy debates at national level' (Goldsmith & Page, 2010, p. 5).³ In order to measure the first, they used 'local governments' share of public expenditure and its share of public employment to reflect their functional importance' (2010, p. 5). In the case of discretion, it is important to 'understand the legal framework within which they operate', but also the 'process of administrative regulation' and the financial regime (Goldsmith & Page, 2010, pp. 5–6). Based on this, it

³ Page and Goldsmith have proposed a classification of local government systems into Northern and Southern ones, according to the vertical power relations, based on the same elements – functions, discretion, and access. This typology is introduced in Section 2.2.3 below.

seems advisable to explore the legal framework and compare it over time, particularly since 'reforming the system of the local government will not be feasible without reforming the municipal law' (Olle, 2000, p. 49).

2.2 DEMOCRATISATION

Since really existing democracy is a perpetually unfinished product, democratization will always be on the research agenda of political scientists. And since nothing seems to work well everywhere, they will have plenty of explaining to do.

Schmitter (2010, p. 28)

2.2.1 THE TRANSITION TO DEMOCRACY AT THE STATE LEVEL

Developments at the local government level are part of the wider process of democratisation. Democratisation has often been divided into the phases of liberalisation, transition and consolidation. For its part, transition can be defined as 'the interval between one political regime and another' or, more specifically, '[t]ransitions are delimited, on the one side, by the launching of the process of dissolution of an authoritarian regime and, on the other, by the installation of some form of democracy, the return to some form of authoritarian rule, or the emergence of a revolutionary alternative' (O'Donnell & Schmitter, 1986, p. 6). According to Richard Rose, the transition implies 'predictability: we not only knew where a country was coming from but also knew where it was going' (2009, p. 1). On the other hand, '[i]n the midst of transformation, it was clear what was being left behind, but it was not clear what lay ahead' (Rose, 2009, p. 1). Rose has found that '[w]hile every society is in transition, few have experienced transformation as abruptly and pervasively as nations once in the Communist bloc [...]. There was the treble transformation of the economy, society and the political regime – and often of the boundaries of the state as well' (2009, p. 1).

The post-communist transition was part of the so-called third wave of democratisation (Huntington, 1991), which also covers certain countries in Southern Europe and Latin America. The democratisation process in Central and Eastern European countries was different from that in Southern Europe and Latin America.⁴ For example, it also included the need for economic reform and affected the levels of nationhood, constitution-making or the institutional framework, and 'decisions on who gets what, when, and how – in terms of both political power and economic resources' (Offe, 2004, p. 505). Schmitter (2010, p. 22) has argued that 'having to make so many changes at

⁴ Although when it comes to democratic survival and failure among third-wave democracies, Carter, Bernhard, and Nordstrom (2016) find that 'in terms of democratic survival there is very little reason to treat post-communist democracies as a special case' (p. 849).

once was an advantage', since in Central and Eastern Europe the transition and consolidation of democracy has been easier and faster than in either Latin America or Southern Europe. Due to the differences, the theoretical literature derived principally from Southern Europe and Latin America (model of transitology/consolidology) has been found to have 'only limited usefulness' at best for Central and Eastern Europe (Wiarda, 2001). Ekiert and Ziblatt (2013, p. 91) describe comparing the 'post-communist experience to democratic experiments in other temporally proximate third-wave cases in other world regions' as 'the mistake of a drunkard whose search for his keys leads him to the spot he can most easily see – under the lamppost'. Hence it is reasonable to analyse Estonia's case only in the context of Central and Eastern Europe.

In 2002, Thomas Carothers published an article entitled 'The End of the Transition Paradigm', which sparked a debate in the *Journal of Democracy* about the transition paradigm.⁵ The article did 'not target the scholarly literature on democratization; it [was] about a set of ideas that many democracy-aid practitioners arrived at and began to apply in the late 1980s and early 1990s' (Carothers, 2002b, p. 33). Carothers' main claim was that there is a contradiction between reality and the model, and that the transition paradigm has 'outlived its usefulness' (2002a, p. 6). He also argued that, based on the paradigm, underlying conditions, including legacies, are not major factors 'in either the onset or the outcome of the transition process', while cases of democratisation in Central Europe and elsewhere show that 'past experience with political pluralism contributes to the chances for democratic success' (Carothers, 2002a, pp. 8, 16). Hence, as the basic assumptions of transition theory have been proved wrong, it is not the most suitable framework for analysing democratisation in Eastern and Central Europe.

Jürgen Habermas has described the changes in Eastern and Central Europe in 1989 as 'rectifying revolutions', where there was a 'total lack of ideas that are either innovative or orientated towards the future' (1990, p. 5). In addition, Illner (1996, p. 160) considered the claim that the majority of ideas and institutions were either 'the cornerstones of western democracy and of the market economy' or 'anchored in the pre-war life of the East-Central European countries' to be mostly correct. 'Mostly' refers to the goals and ideologies of transformation here. The case might be different for the 'policies used to implement such goals and the changes themselves', since the transformation was 'producing its own social systems' (Illner, 1996, p. 160).

In a similar vein, different metaphors have been used to describe democracy-building. Elster, Offe, and Preuss (1998) have used a 'rebuilding the ship at sea' metaphor to describe the transformation process in the post-communist countries, conjuring up an image of a damaged boat that the passengers have to rebuild in the 'open sea'. Alternatively, Guillermo O'Donnell and Philippe Schmitter (1986, p. 66) have used a 'multilayered

⁵ *Journal of Democracy*, Vol 13, no 3, July 2002, pp. 5–38.

chess game’ metaphor to describe some types of transition from authoritarian rule, since actors experience systems of constraints. Both metaphors suggest that there is no reason to look for linear or sequential models to explain the process of transitioning to democracy. A variety of transition pathways can be identified across nations and each national case has its peculiarities (Pridham, 1994, p. 17).

2.2.2 THE IMPACT OF LEGACIES

Within the last decade or so, certain authors (e.g. Bozóki, 2008; Ekiert, 2003; Pop-Eleches, 2007; Pridham, 2009) have brought history back into democratisation studies and used the past, and especially legacies, to explain the success or outcomes of democratisation. The use of legacies as an explanation for the diverging paths of various countries after the fall of communism is multifaceted. First, the temporal focus ranges from communist legacies to interwar legacies (e.g. Ekiert and Ziblatt, 2013) and even thousands of years back (e.g. Young, 1997). Second, the level of analysis is mainly focused on individuals’ political behaviour (e.g. Pop-Eleches and Tucker, 2017) or post-communist institutions and their design (e.g. Sarapuu, 2017). Third, legacies are mainly treated as a correlation, but sometimes also as a relationship (e.g. Kotkin and Beissinger, 2014). Due to all of these variations, the meaning of ‘legacy’ varies from one study to another and the concept is often left undefined.

Regarding the post-communist economic and political transformation, Ekiert suggests that ‘in order to understand East European experiences we should pay more attention to legacies of the old regime and path-dependent dynamics, even despite the fact that these cases are characterized by a sharp break in institutional continuity’ (2003, p. 114). Various countries of Central and Eastern Europe ‘have been able to reassert links to pre-communist identities and, in [the] view of many observers, ‘return’ to their specific historical trajectories interrupted by communist rule’ (Ekiert & Hanson, 2003a, p. 2). This does not mean that the historical past predetermines the trajectory *per se*, but to some extent it makes some paths more probable. Painter and Peters, analysing administrative traditions,⁶ argue that ‘even if the structures have changed, many of the underlying values may not have’ (2010, p. 3).

Researchers into the post-communist period have paid more attention to communist legacies than to pre-communist ones (Wittenberg, 2013, pp. 4–5) and this trend continues.⁷ Wittenberg notes that we do not necessarily have to

⁶ Peters (2008, p. 118) defines an administrative tradition as ‘an historically based set of values, structures and relationships with other institutions that defines the nature of appropriate public administration within society’. Therefore, ‘administrative traditions refer to a lower level of abstraction than historical legacies. Administrative traditions are a part of the administrative legacy of a country’ (Meyer-Sahling & Yesilkagit, 2011, p. 315).

⁷ For example, Pop-Eleches and Tucker (2017) and Beissinger and Kotkin (2014).

distinguish between the pre-communist, communist, and post-communist period. 'Another possibility would be to divide things into an authoritarian period (encompassing interwar dictatorships as well as communism) and a post-authoritarian period after 1989. Depending on which demarcation is used, the temporal identity of the legacies would change' (Wittenberg, 2013, p. 10).

Ekiert concludes that '[i]n the existing literature on democratization authors usually point to at least four groups of factors that need to be included in any effort to explain patterns of the ongoing transformations: legacies of the past and initial conditions, institutional choices, policies of new governments, and the extent of external support' (2003, p. 92). For Estonia's local government, the first point would involve firstly analysing the local government during the so-called First Republic or interwar period (1918–1940) because we need to understand the local government structure and reasons for this structure in order to identify the legacies in the post-1989 period. For initial conditions, we have to turn to the local administration that was in place in the 1980s.

Based on the debates on public administration in East Central Europe, Meyer-Sahling also claims that 'there is no agreement with regard to the status of the legacy for the explanation of post-communist reform pathways and outcomes' (2009, p. 510). In their analysis of the democratic transition and consolidation in post-communist Europe, Linz and Stepan argue that 'History and the specific legacy of the previous non-democratic regime are important for all analyses of democratization. There is possibly no area where history is more important than in the Baltics' (1996, p. 402). They also emphasise the fact that on the one hand, the USSR 'brutally transformed these polities demographically, culturally, economically, and even ecologically', but on the other hand, 'Estonia and Latvia had the most substantial prior experience of democratic politics of any of the Soviet republics' (Linz & Stepan, 1996, pp. 402–403).

Legacies can be positive or negative. Linz and Stepan use the term 'usable democratic legacy' to refer to the pre-communist democratic experience of the Baltic countries (1996, p. 452), which is mainly a positive legacy. The communist regime also had positive (e.g. eliminated illiteracy⁸) and negative legacies (e.g. double standards) (Bozóki, 2008). 'The discrepancy between the formal rules and administrative practices is commonly argued to remain a hallmark of post-communist administrations' (Meyer-Sahling, 2009, p. 511),

⁸ In the case of Estonia, this legacy is not applicable because, according to the census of 1897, the literacy rate in the Governorate of Estonia was 79.9%, while in Moscow it was only 56.3% – these figures include the whole population, including infants. When considered only from age 10 and above, then the rate on Estonian territory (Governorates of Estonia and Livonia) was 95%. In 1934, the literacy rate in Estonia was 96.1% (Tiit, 2011, p. 124). Education played a prominent role in interwar Estonia and the nation 'developed into one of the most highly educated in the world' (Bennich-Björkman, 2007, p. 89).

one reason being that attitudinal legacies⁹ are usually more difficult to handle than institutional ones (Pridham, 2000, p. 49).

The continuities in the post-1989 developments are 'both structural and cultural and reach to the more recent as well as to the distant past' (Illner, 1996, p. 162). Ekiert finds that 'legacies can only be actualized through events' and 'the interaction of legacies and events should be at the center of macrohistorical analysis' (2003, pp. 93–94). Kopstein, in analysing some of the literature on the post-communist democracy and legacies, concluded that:

If the weight of the past affects the present, at a minimum it is necessary to specify which past. In the case of East-Central Europe, for example, the relevant past has been identified as the policy choices in the initial postcommunist years that have been influenced by the path of extrication from Communism, whether roundtables or revolutions, that have in turn been determined by the types of Communist regime that are themselves the product of the types of precommunist state and society, which ultimately reflect the level of modernization at the time of national independence after World War I. (2003, p. 233)

Opinions vary on the stage at which the impact of different legacies is the strongest, but based on previous research there is some reason to believe that during the initial years of transition the communist legacies had a stronger effect than the legacies of the pre-communist period. Ekiert (2003) argues that the legacies of the communist period had the most significant impact on specific paths of reform and types of transformation in Central and Eastern Europe during the first decade of post-communism. Further, Meyer-Sahling concludes, based on his analysis of government effectiveness, that the 'legacy of the communist past had a short-term effect on administrative reform outcomes after the change of regime' (2009, p. 517), but also suggests that this potentially short-term impact of the legacy of the past should be subject to empirical investigation. Pop-Eleches found, by using a cross-sectional regression method,¹⁰ that there is no evidence that the effect of legacies fades away as the transition takes its course, but rather that 'interwar statehood was a much stronger predictor of civil and political rights in 2004 ... than during the early transition years, when its effect was statistically insignificant' (2007, p. 917). The weakness of Pop-Eleches' study is that interwar statehood is only marked as absent or present, without taking into consideration its duration or content. All three examples (Ekiert, 2003; Meyer-Sahling, 2009; Pop-Eleches, 2007) describe the situation at the state level and not at the local level.

⁹ According to LaPorte and Lussier (2011, p. 646) the attitudinal legacies are microlevel legacies and 'describe the attitudes and expectations of individuals or aggregates of individuals (for example, voters, mothers, ethnic minorities)'.

¹⁰ It is not clear from his article exactly which countries are included under the interwar statehood variable, although the study covered 28 countries (12 East European countries and all 15 former Soviet republics and Mongolia).

At the same time, there is no ‘consensus on what constitutes a “legacy” or how to define it’ (LaPorte & Lussier, 2011, p. 638) and ‘through what mechanisms legacies shape current outcomes’¹¹ (Ekiert & Hanson, 2003a, p. 4). The simplest definition provided in the Merriam-Webster dictionary is that a legacy is ‘something transmitted by or received from an ancestor or predecessor or from the past’. To arrive at a legacy definition that befits historical institutionalism and comparative historical analysis, then legacies can be defined largely following Collier and Munck (2017) as ‘durable, stable institutions’ emerging from a critical juncture. This renders a legacy a crucial concept in determining the occurrence of a critical juncture. For the scholars of post-communist politics, oftentimes ‘a legacy is a causal factor that *endures through* a critical juncture’ (Lussier & LaPorte, 2017, p. 12; emphasis in the original), and this is a difference worth bearing in mind when perusing the literature.

Although Meyer-Sahling questions the impact of the interwar period on the post-communist administrative reforms, he does not deny that this period was a source of inspiration (2009, p. 521): ‘the discrepancy between Czechoslovakia’s status as the country with the most professional bureaucracy during the inter-war period and the status of the Czech Republic as the reform laggard under post-communism does not lend support to the argument that the inter-war period could have much of an impact on post-communist reforms’. The conclusion regarding the weak link between the interwar period and post-communist reforms is questionable considering research conducted by Ekiert and Ziblatt (2013), Nunberg (1999), and Pop-Eleches (2007). Moreover, Meyer-Sahling himself calls for ‘further development of legacy explanations of administrative reform in East Central Europe’ (2009, p. 524).

In conclusion, the legacies approach holds appeal because previous research about post-communist democratisation has found that:

- ‘Subregional differences and country-specific trajectories from the pre-communist period persisted during the communist period and remain visible today’ (Ekiert & Ziblatt, 2013, p. 96). The specific relations require further research according to Ekiert and Ziblatt (2013), especially with regard to the interwar period’s impact on post-communist reforms, as questioned by Meyer-Sahling (2009), for example.
- ‘[H]istorical legacies seem to matter more rather than less as the post-communist transformation takes its course’ (Pop-Eleches, 2007, p. 924).

When it comes to the analytical framework for examining post-communist transformations and legacies, Ekiert and Hanson (2003b, pp. 18–20)

¹¹ Wittenberg (2015, p. 369) has emphasised that a legacy ‘is the outcome to be explained, not the antecedent or the mechanism linking antecedent and outcome’. Furthermore, that ‘outcome qualifies as a legacy only if it cannot be fully explained except by reference to an antecedent cause or correlate’ (Wittenberg, 2015, p. 369).

distinguish three levels of 'analysis for investigation of the temporal and spatial contexts within which social and political change takes place'. These levels, which represent 'three types of temporal "path dependence"' (Ekiert & Hanson, 2003b, pp. 19–20), are: structural ('historical patterns of economic and cultural reproduction'; *longue durée*), institutional (institutions and practices, i.e. institutional legacies; intermediate period of time), and interactional ('contingent events, choices, and decisions engendering processes of increasing returns'; immediate context). Related to the latter, Crawford and Lijphart suggest, based on various research, that 'the immediate context provides the conditions under which past legacies will or will not play a role in shaping the direction of regime change' (1995, p. 196).

2.2.3 DECENTRALISATION AND DEMOCRATISATION AT THE LOCAL LEVEL

In the process of theorising about democratisation, political institutions are sometimes seen as outcomes of strategic interaction and also as 'stable platforms from which contending groups can predict policy outcomes into the future' (Alexander, 2001, pp. 249–250). Capoccia and Ziblatt (2010, p. 940) emphasise that:

the complex institutional configuration of democracies rarely emerges all at once. On the contrary, different institutions often emerge at different times, often for different reasons. Thus, it is important to narrow our analytic look from the whole regime to a more detailed analysis of the emergence of the discrete democratic institutions that together define the content of political regimes.

Local government is one such democratic institution. During the Soviet period there was no local self-government in Estonia and hence we cannot talk about democratisation without paying attention to democratic decentralisation. Decentralisation is a vital element of transformation in post-communist countries (Baldersheim & Illner, 1996, p. 7) and can contribute to the democratisation process (e.g. development of new elites, subnational governments' ability to act 'as a check or countervailing force to national governments') (Illner, 2000, p. 391). Although decentralisation is also used in established democracies as a tool for intergovernmental relations, in the post-Soviet countries, decentralisation was needed in order for local self-government to materialise.

There are at least three sources of, or motivators for, decentralisation – local-level, national-level, and international-level actors. Devas and Delay have indicated that one possible driver for decentralisation is 'a real demand from the local level for local democratic control and autonomy, such as occurred in Central and Eastern Europe in the early 1990s as a reaction against the failures of the centralised state over the previous four decades' (2006, p. 678). Yet the national level may also 'perceive the potential economic,

administrative and political advantages of decentralisation' (Devas & Delay, 2006, p. 678), or the pressure for decentralisation might come from international organisations and bodies (e.g. OECD, European Union).

Decentralisation has at least three facets – administrative, political (including democratic), and fiscal. Administrative decentralisation involves deconcentration, devolution, and delegation. Deconcentration is a process whereby 'governmental functions are shifted downward within the hierarchical system of state bureaucracy, yet without weakening the vertical hierarchy of the system – deconcentrated units remain vertically subordinated to central authorities' (Illner, 1998, p. 8). Devolution is 'the transfer of authority to relatively autonomous bodies outside the direct control of central authorities' (Yoder, 2003, p. 264) (e.g. to elected local governments) and is a way to increase local autonomy. To this end, deconcentration, delegation, and devolution can be seen as 'points along a continuum of administrative autonomy', where devolution involves the most autonomy (Schneider, 2003, p. 38).

Political decentralisation 'includes the constitutional or electoral reforms designed to devolve political authority to subnational actors and to create or activate spaces for the political representation of subnational polities' (Falleti, 2010, p. 17). Fiscal decentralisation policies should 'increase the revenues or fiscal authority of subnational governments' (Falleti, 2010, p. 17). Falleti (2010, p. 37) also notes that 'a significant time lag between unfunded administrative decentralisation and fiscal decentralisation most likely indicates that the national government has the upper hand'.¹²

Democratisation and decentralisation do not always go hand in hand. Pursuing only administrative decentralisation, without democratic decentralisation, can undermine democratisation (Manor, 2006). In addition, decentralisation can, under certain circumstances, lead to increased corruption or growing regional inequalities (Dowley, 2006; Loewen, 2018).

The processes that took place in Central and Eastern Europe were not only those related to democratisation and decentralisation. For example, Coulson and Campbell have argued that 'it was the rediscovery and reinvention of the purpose and rationale of local government, seen as playing a central role in the political and social life of the country, bridging the state and civil society' (2006, p. 539). Illner (1998) has claimed that the reforms aimed at decentralisation in Central and Eastern Europe were halted halfway through the process, and more centralist policies have been introduced in the region. Estonia seems to be no exception, since in the mid-1990s the administrative system started to become state-focused again (Olle, 1996).

¹² O'Dwyer and Ziblatt (2006) found, based on a sample of around 33 countries, that the correlation between the three types of decentralisation (political, fiscal, and administrative) is very weak. The same study also tentatively concludes that various types of decentralisation have had a different impact both on efficiency and effectiveness.

Some of the key issues of decentralisation are (Devas & Delay, 2006, pp. 679–680, 682):

- 1) The size of decentralised local government units and the number of levels
- 2) The structure of local government and local democratic control
- 3) The financing of local government
- 4) Central-local relations

The size of local government units and the number of levels

It is believed that the size of the basic units of local government influences their effectiveness and democracy. Smaller units offer greater opportunities to citizens for direct participation in governance (Horváth, 2000, p. 36), while bigger ones make it possible to provide services that have economies of scale (Devas & Delay, 2006, p. 680). The number, functions and relationships between the tiers of a local government system was one of the most broadly discussed issues in Central and Eastern Europe in the 1990s (Horváth, 2000; Regulski, 2003).

In many countries, there is a regional or county level between the state and local government. The governmental purpose and capacity of the regional or county authorities varies, reflecting differences in national state structures (Herrschel & Tallberg, 2011, p. 11). Keating (1997, p. 17) suggests that:

in most states, the region is a contested area, both territorially and functionally. Spatially, it exists somewhere between the national and the local and is the scene of intervention by actors from all levels, national, local, regional and now supranational. Functionally, it is a space in which different types of agency interact and, since it is often weakly institutionalized itself, a terrain for competition among them.

Ultimately, due to the regional or county level being an arena of conflicting interests, the question arises as to ‘whether such an intermediate or regional tier of government should be part of the central government apparatus (i.e. a deconcentrated tier) or a democratically elected tier of devolved government’ (Devas & Delay, 2006, p. 681). In this thesis, the regional level has been understood as the level between the state and cities/rural municipalities, even if there is no political self-government at this level.¹³

¹³ For example, the Assembly of European Regions (1996) has defined a region as ‘the territorial body of public law established at the level immediately below that of the state and endowed with political self-government’.

The structure of local government

Under the structure of local government, Devas and Delay (2006) refer to two main executive models, namely the single executive (directly elected executive mayor) and the plural executive (mayor plus executive committee elected indirectly from the council, or leader plus functional committees of the council). 'The advantages claimed for the single executive model [...] are about effective decision-making and clear lines of accountability', while the plural executive model 'offers greater opportunities for council members to have a voice on behalf of their constituents in the council's decisions. The loss of this voice in the single executive model can lead to frustration on the part of councillors and attempts to sabotage the work of the executive' (Devas & Delay, 2006, pp. 682–683). 'In East-Central Europe, the problem of balance between the representative and executive functions was particularly acute during the first years of post-communist reforms, both at national and local levels' (Baldersheim, Bodnarova, Horvath, & Vajadova, 1996, p. 198). Baldersheim et al. (1996, p. 199) argue that the executives largely had the role of building the capacity of the system¹⁴ 'to act in accordance with the demands with which they were faced'.

According to constitutional institutionalism, mayoral norms 'vary along with different government forms', because 'different countries structure their political organisation in different ways, including the division of labour between the mayor, the elected officials and the appointed officials' (Berg, 2006, pp. 320–321). Kübler and Michel (2006, p. 222) consider that in the case of vertical power relations, the 'cultural traditions, legacies of the past, as well as routines established through daily practice can be at least as important in shaping central-local relations' as legal rules. The same can be assumed to be valid for horizontal power relations.

The council has both an internal and an external role. 'Internally, the council should exert its influence in its relations with other agents to make local government responsive to "the voice of the people"' (Denters, 2006, p. 271). While the council exerts its control over the mayor, the 'control over the city council is to a large degree a function of the electoral system' (Mouritzen & Svava, 2002, p. 53).

Mouritzen and Svava (2002, p. 5) propose, on the basis of 14 countries,¹⁵ a local government typology based on horizontal power relations. They duly distinguish four forms of local government: the strong mayor form, the committee-leader form, the collective form, and the council-manager form. These are ideal forms; the 'mayor has the most influence in the strong-mayor

¹⁴ 'System capacity' includes financial and legal resources, as well as the political and managerial skills for using them. The three main elements of system capacity are power, leadership, and management (Baldersheim, Bodnarova, Horvath, & Vajadova, 1996, p. 199).

¹⁵ Australia, Belgium, Denmark, Finland, France, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, the United Kingdom, and the United States.

form of government and the least influence in the council-manager form' (Mouritzen & Svara, 2002, pp. 55, 212).

The financing of local government

The two main issues concerning the financing of local government are the extent and nature of local taxation and the grant system (Stewart, 2000). The financing system reflects the degree of decentralisation and local autonomy. Traditional measures for decentralisation include, for example, local government expenditure as a share of GDP and local expenditures as a share of total government expenditure (Dowley, 2006, p. 568). According to Schneider (2003, p. 37), 'viewing subnational expenditures as a percentage of total expenditures is the most appropriate way to gauge fiscal decentralization'; however, this 'does not evaluate the autonomy possessed by local units'.

Fiscal autonomy refers to 'resources distributed and collected by local governments without the control of central or regional governments' and can be regarded as high if local governments rely on their local revenue and allocate them at will (Soós, 2006, p. 11). 'The percentage of local revenues from taxes provides an indicator of the degree of subnational control over resources' (Schneider, 2003, p. 38). Vertical fiscal imbalance exists where sub-national governments depend on transfers from higher levels of government for their expenditure needs (Caulfield, 2002, p. 154). Financial autonomy has a direct impact on the real power of a local authority. This might go some way towards explaining why fiscal decentralisation is one of the aspects of transition that has attracted the most attention from academics to date.

Central-local relations

Central-local relations involve the inherent tension between local autonomy and central control. Pratchett has identified three approaches for defining and analysing local autonomy, namely '*freedom from* higher authorities ... *freedom to* achieve particular outcomes ... and ... as the *reflection of local identity*' (Pratchett, 2004, p. 363). The 'freedom from' approach is 'based on constitutional and legal understandings of central-local relations' (Pratchett, 2004, p. 363) and in principle refers to local autonomy.

Furthermore, we can distinguish three categories of central-local relationships: dual, fused, and split-hierarchy (sometimes referred to as the "mixed system"). In a dual structure 'at the local level central government agencies and the municipalities exist side by side but with different competencies', while in fused systems 'local authorities and their competencies are determined by local as well as by upper-level government' (Heinelt & Hlepas, 2006, p. 22). This typology has been deemed too simplistic to capture differences, especially as most European countries are under a

fused system, or one approaching that (Heinelt & Hlepas, 2006). In addition, John (2001) warns about designating any state as dual as this proposition has not been sufficiently tested. As the current study focuses on just one country, which has experienced both a dual and a fused system, the typology allows for describing the general tendency over time.

Another way to view central-local relations in Europe is via the North and South division proposed by Page and Goldsmith, which was based on the situation in the 1980s, that is, before the collapse of communism, as summarised in Figure 2.1. The North primarily comprised Northern European countries (Britain, Denmark, Sweden, and Norway), where ‘local government had a wide range of functions with some discretion ..., but had largely formal access via local government associations to central government’ (Goldsmith & Page, 2010, p. 1). The South was predominantly composed of Southern European countries (Italy, France, and part of Spain), where local governments had few functions and limited discretion, ‘but had more direct and informal access to the central government over many matters of local interest’ (Goldsmith & Page, 2010, p. 1). Furthermore, this divide is also in line with the religious divide – the Protestant north and the Catholic south, which has had an impact on the political culture and decentralisation of the countries (John, 2001, pp. 28–29). The differences between the North and the South are due to their historical background and hence the typology is grounded in history, which is one of the advantages compared to the dual/fused typology, especially when using it in a historical-institutionalist analysis. Its weakness lies in the fact that Goldsmith and Page covered only a limited number of unitary states and omitted federal Germany in their typology-building, for example.

	Functions	Discretion	Access
North	High	High	Low
South	Low	Low	High

Figure 2.1 Functional allocation, discretion and access in the local government systems of Western Europe (Source: John, 2001, p. 28)

2.3 LOCAL GOVERNMENT IN POST-COMMUNIST COUNTRIES

Despite the possible legacies explanation elaborated in the previous section, a continuing puzzle is how to explain why some post-communist countries are democratic, while others are semi-democratic or autocratic (Ekiert, Kubik, & Vachudova, 2007). This, in turn, gives rise to an analogous question: Why have different post-communist countries developed their local government systems in divergent ways after decades of communist rule (i.e. what were the determinants)?

Ekiert and Ziblatt claim that:

post-communist political transformations (outside of the former Soviet Union but including the Baltic states) should be conceptualized as a part of an ongoing and long-term historical democratization process across the gradient of Europe's continent, from which the communist rule was but almost a temporary diversion. (2013, p. 91)

Turning to the establishment of local government, Horváth identifies three main routes for the development of institutional transition at the local level in Central and Eastern Europe. According to the first scenario, the first free parliamentary and local elections were held at the same time 'in order to establish new legitimate representative bodies' (Horváth, 2000, p. 38). Under the second scenario, the parliamentary elections were held first and the new parliament adopted the basic legislation on local government, based on which the local elections were held. The third, or 'gradual model', which was the most typical in Central and Eastern Europe, was based on graduated legislation and foresaw that 'only the most necessary elements for the future regime were introduced under the former circumstances' (Horváth, 2000, p. 38). Estonia falls mostly under the third scenario because the local elections took place before the parliamentary ones, although it could also represent an additional scenario whereby democratic power was established first at the local level, after which new parliamentary elections took place.

New legislative foundations were also needed to establish the institutional framework for local government. Horváth (2000) indicates two common legislative packages which are critical in (re-)establishing democratic local governance. The first consists of: (a) 'constitutional changes (either a new constitution or crucial modification of the previous one); [(b)] acts on local government coherently codifying the basic rules of the new system, including ... structure and operational rules; [(c)] acts on free local elections, defining the electoral system and process' (p. 27). The second package, which establishes the scope of local government, includes: (a) 'civil servant and public employee acts; [(b)] acts on the scope and duties of public administration at each level; [(c)] acts on property administration' (Horváth, 2000, p. 28). In addition, basic legislation is required on the status of the capital city and financial regulation of local governments (Horváth, 2000, p. 28). The first package seems to be more crucial for local democracy because it can provide constitutional guarantees to the local government, determine horizontal and vertical power balances, and set the rules for representative democracy. In terms of the second package, point (b) specifies the vertical or central-local relations.

Elster, Offe, and Preuss (1998, p. 18) claim that 'transformation and systemic change is something that is only to a limited extent a matter of law making' because there are other determinants of change that cannot easily be legislated, including cultural patterns and legacies, for example. In addition, Falleti has shown, based on her study of decentralisation in Latin America,

that although the institutional designs are shaped by ‘historical legacies and contextual conditions’, they are also ‘dependent on the types of territorial interests¹⁶ that dominate in the first round of negotiations over decentralization reforms and the order in which these [decentralization] policies unfold’ (2010, p. 39).

Swianiewicz (2014) attempted to create an empirical typology¹⁷ of local government systems in Eastern Europe, as the well-established typologies often exclude this region. He proposed five types/clusters, based on which the Czech Republic, Estonia, and Latvia were grouped under type II. He refers to these three countries as ‘relatively decentralised’, pointing to the ‘negligible role of locally controlled taxes’, ‘a high level of territorial fragmentation ... and collective leadership’ (p. 305). This typology only takes into account the selected indicators in the 2000s, however, and hence may no longer be applicable in the next few years.

Local government development in the post-communist countries is varied. New local government acts were introduced in the Czech Republic, Hungary, Poland, and Slovakia in 1990, and free local elections were held some months later (Baldersheim, Blaas, Horvath, Illner, & Swianiewicz, 1996, p. 24). In all the Baltic countries, the first competitive local elections were held in December 1989, whereas in Estonia the local government act was adopted in November 1989, and in Latvia and Lithuania one year later. While Hungary started to introduce a new local government financial system step by step as early as 1986, the Czech Republic and Slovakia didn’t follow suit until January 1993. In many countries (e.g. Poland, Hungary, the Czech Republic, and Slovakia), the number of municipalities had increased by 1991 compared to 1988. In 2012, the mayor was elected directly in Hungary, Romania, Bulgaria, Slovakia, and Slovenia, and indirectly (by council) in the Baltic states and the Czech Republic. Lithuania introduced direct mayoral elections in 2015.

The uniqueness of the Estonian case

Comparative studies on local government in post-communist countries have generally been limited either temporally or geographically (with a focus on Central Europe), and there is a lack of comparative analyses involving pre-communist or interwar legacies at the local level. The current comparative historical analysis aims to address this lacuna.

Schöpflin analysed eight countries under communist regimes and concluded that for ‘every generalisation about Eastern Europe there is at least one exception, if not actually eight’ (1993, p. 2). Given that it was difficult to

¹⁶ According Falleti, territorial interests ‘are defined by the level of government that the actors represent’ and ‘by the characteristics of the geopolitical territorial unit’ they represent (Falleti, 2010, p. 41).

¹⁷ Swianiewicz used the following indicators as the basis: (1) territorial organisation; (2) functional decentralisation; (3) financial discretion of local governments; and (4) horizontal power relations.

make generalisations even during communist eras, the post-communist period is even more varied.

During the interwar period, Estonia probably bore the most similarities to Finland. De Meur and Berg-Schlosser (1994) analysed 18 countries in the context of the survival and breakdown of democracy during the interwar period. Of the countries covered,¹⁸ the most pronounced similarities were found between Estonia and Finland, but while there was a democratic breakdown in the former, democracy survived in the latter. Findings indicated that one of the main reasons for the different outcomes was the different political culture in the respective countries (De Meur & Berg-Schlosser, 1994; Siaroff, 1999).

Estonia is probably unique among post-communist countries during the interwar period. For example, Hungary and Poland had a different level of interwar statehood. While Hungary had an independent statehood in the interwar period (Pop-Eleches, 2007, p. 915), it was under dictatorship from 1919 (Davies, 1997, p. 1320) and 'did not have a single free and fair election in the interwar period' (Kopstein, 2003, p. 232). Poland was, as a result of a coup, an authoritarian state from 1926. 'Bulgaria had never truly experienced democracy in its history before the breakdown of the communist regime and was culturally separated from its Western neighbours', hence the country 'could not refer to a "golden" pre-communist period' (Elster, Offe, & Preuss, 1998, p. 47).

Czechoslovakia deserves a fuller explanation. Olson (1997, p. 151) claims that the Czechoslovakian Republic, created at the end of World War I, 'was the only Eastern European nation to experience a continuous democracy until the beginning of World War II'. He also points out that the proportional representation electoral law of the 1990s in the Czech Republic was 'a revival of the First Republic election system' (Olson, 1997, p. 151). Regrettably, Olson highlights similarities between the interwar and post-communist periods, without focusing on causal mechanisms much.

Czechoslovakia did not belong to the Soviet Union, and hence the communist regime was different from that in Estonia. Czechoslovakia, just like Yugoslavia, was a multinational state. Therefore, 'because most Slovaks saw the interwar government as an instrument of Czech hegemony, this experience did not provide the same grounding for the effort to recreate democratic political life in Slovakia as it did in the Czech Lands' (Wolchik, 1997, p. 200). In Slovakia, the 'legacy of the interwar nationalist movement has also been evident in patterns of support for political parties in the postcommunist period' (Wolchik, 1997, p. 201).

In the interwar Czechoslovakia, the real local self-government existed only at the municipal level (the lowest level) according to Taborsky (1951). Taborsky

¹⁸ The countries covered were: Switzerland, Finland, Belgium, the Netherlands, Great Britain, Czechoslovakia, Ireland, Austria, Germany, Italy, Hungary, Romania, Estonia, Portugal, Spain, Greece, and Poland.

(1951, p. 203) claimed in his article back in 1951 that ‘what happened in the field of local government in Czechoslovakia [during the interwar years] cannot be fully understood unless viewed against the Austro-Hungarian background’. The basic element of Austro-Hungarian heritage¹⁹ was ‘the Czech-German feud in the west and the similar ... feud, between the Slovaks and the Hungarians in the east’ (Taborsky, 1951, p. 203). The feud concerned the wish for increased state rights and centralisation as a response to this. There was at least one ‘element which might have worked in favour of more local self-government – the discontent with the German-controlled (non-elective) local administration in the Czech lands’ (Taborsky, 1951, p. 205). But there was a general lack of interest and the new elite did not trust the Slovak people with local government, therefore local government in the new Republic became centralised (Taborsky, 1951, p. 206).

Unfortunately, no detailed (comparative) historical analysis of local government in the Czech Republic seems to be available in English, and hence it is not possible to draw parallels or highlight differences between the Estonian case and the Czech Republic’s case. At the general level, it seems that compared to the interwar local government in Czechoslovakia at the lowest/primary level, the Estonian local government was more autonomous during the first decade of the interwar period at least.

Two decades ago, Young (1997) analysed state-building in post-Soviet Russia, focusing on the ‘organisation of power among different levels of government’, especially local self-government. His analysis delves back as far as the 13th century and demonstrates how the legacy of a unitary system of power has hindered the development of local government in Russia – the ‘greatest obstacle to local self-government in Russia has been the fact that motivation for reform has always emerged from above’ (Young, 1997, p. 269). According to Young, the local government reforms, including those during the Gorbachev era, failed for two main reasons. First, ‘the dominant interests involved in reforms had too much to lose and not enough to gain in the development of local power’, and second, ‘Russia lacked a meaningful legacy of local government’ (Young, 1997, p. 172).

As mentioned previously, of the Soviet republics, Estonia and Latvia had the most substantial prior experience of democratic politics. A coup occurred in both countries in 1934, giving way to authoritarian rule. In Lithuania, a coup took place as early as 1926. In each case, ‘the coup was to a certain extent a pre-emptive one’ (Rothschild, 1992, p. 372). Latvia was the only Baltic country that reintroduced its interwar constitution in the 1990s. While Lithuania and Estonia had several interwar constitutions, including during the authoritarian years, Latvia had only one, adopted in 1922, namely before the authoritarian regime. This makes Latvia unique in its own way among Eastern European countries.

¹⁹ Taborsky uses the term ‘heritage’ similarly to the way in which many authors use the term ‘legacy’ half a century later.

When it comes to the usable past and local government, it seems safe to claim that Estonia is one of the few (if not the only) post-communist countries that had a ‘usable (democratic) past’ during the interwar period coupled with the experience of a strong local government. This makes identifying interwar legacies in the Estonian case challenging, as there is no other country with the same interwar legacy, which would allow for testing the validity of the legacy argument.²⁰

To conclude, studying democratisation and institutional developments at the local level, in addition to the national level, is relevant because local government is traditionally valued as a locale for political education and can contribute to the sustainability of democracy. Experience has shown that democratisation does not follow a set path but, despite the common communist past, developments in various countries diverge, and different countries have set up their institutions in different ways. Thus, it leads to the assumption – which will be studied below – that one explanation for divergence is the (distant) historical past of the specific country and context, which served to impact the institutional choices in the post-communist period.

²⁰ In the case of communist legacies, the value of comparison has been demonstrated by Frye (2014), for example.

3 ANALYTICAL FRAMEWORK AND METHODOLOGY

For an economic historian, time has always been something that is fundamentally disturbing, because there is no time in neoclassical theory ... I will be blunt: Without a deep understanding of time, you will be lousy political scientists, because time is the dimension in which ideas and institutions and beliefs evolve.

(North, 1999, p. 316)

The main purpose of this research is to explain the institutional similarities in local government in Estonia during two periods of independence. As the literature review revealed that transition theory is outdated, and that it may be feasible to explain the divergence between post-communist countries by looking to the past and considering legacies, the chosen analytical framework is historical institutionalism. In order to identify the legacy effects, it is insufficient to merely pinpoint 'broad similarities and correlations between past configurations and present administrative reform outcomes ... because some kind of mechanism of reproduction must be present for the legacy to have a long-term effect' (Meyer-Sahling, 2009, pp. 522–523). Bearing this in mind, this chapter provides an overview of the analytical framework and main methods used in the study.

3.1 HISTORICAL INSTITUTIONALISM

Historical institutionalism is a sub-field of new institutionalism,²¹ and would appear to be an appropriate conceptual approach to the study considering that historical institutionalism 'grew out of an interest in explaining variations' (Steinmo, 2016, p. 107). New institutionalists agree that institutions are shaped by history (Putnam, 1993, pp. 7–8), seeing them 'as the product of concrete temporal processes' and 'as enduring legacies of political struggles' (Thelen, 1999, pp. 384, 388). In addition, Ekiert (2003, p. 89) proposes that 'a historical institutionalist approach provides a uniquely useful set of analytical and methodological tools for understanding' post-communist transformations. Historical institutionalists 'tend to have a view of institutional development that emphasizes path dependence and unintended consequences' (Hall & Taylor, 1996, p. 938) and most historical institutionalist 'analysis is founded on dense, empirical description and inductive reasoning' (Sanders, 2006, pp. 42–43). Steinmo (2016) believes that 'to understand the

²¹ The three main types of new institutionalism are historical, rational choice, and sociological institutionalism.

actual policy choices made in different countries, we must examine the *interaction* between history, political institutions, public policies, and citizens' preferences' (p. 107, emphasis in the original). Further, as 'the various institutional arrangements that make up a polity emerge at different times', historical institutionalists 'are likely to be concerned with the origins rather than the functions of the various pieces' (Thelen, 1999, p. 382). The origins can reflect different logics of political order. 'Historical institutionalists address big, substantive questions ..., take time seriously, ... analyze macro contexts and hypothesize about the combined effects of institutions and processes' (Pierson & Skocpol, 2002, pp. 695–696).

In order to understand institutional evolution, we have to specify 'the reproduction and feedback mechanisms on which particular institutions rest' (Thelen, 1999, p. 400). Moreover, as shown by Falletti (2010), the sequence or order of the reforms and events matters; as when cooking, the result depends on the order in which the ingredients are added (Pierson, 2004, p. 1).

One advantage of using historical institutionalism when studying Estonian local government is that the concept 'stresses what is, rather than what should have been' (Norgaard, 2001, p. 31). 'What the HI scholar wants to know is why a certain choice was made and/or why a certain outcome occurred' (Steinmo, 2008, p. 126). The fundamental logic and central concepts of historical institutionalism are path dependence and persistence, combined with critical junctures, and therefore the ability of historical institutionalism to explain smaller changes is sometimes questioned. Yet ways have increasingly been sought to discover how historical institutionalism could be used to explain an incremental change (see Streeck & Thelen, 2005; Mahoney & Thelen, 2010). Further, a recent trend has been to differentiate between exogenous and endogenous institutional change; while the former is more abrupt, the latter is gradual.

The potential of historical institutionalism in democratisation studies has not been fully explored as yet because only 'in recent years have democratization scholars begun to formally adopt the theoretical tools of historical institutionalism to study institutional continuity and change in authoritarian and democratic regimes' (Barrenechea, Gibson, & Terrie, 2016, p. 195).

3.1.1 THE MAIN CONCEPTS – PATH DEPENDENCE AND CRITICAL JUNCTURES

As referred to above, two main concepts of historical institutionalism are path dependence and critical juncture. Path dependence can be seen as an 'explanation that unfolds through a series of logically sequential stages' (Mahoney, 2001, p. 6) as shown in Figure 3.1. When scholars refer to the critical juncture framework (see Table 3.1 below), the logic is broadly the same, but the emphasis is on the critical juncture rather than on the persistence of institution or policy.

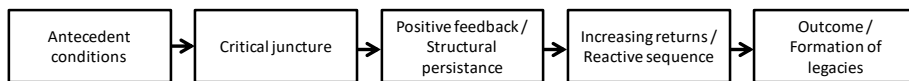


Figure 3.1 Path-dependence explanation
 Source: Adapted from *The Legacies of Liberalism: Path Dependence and Political Regimes in Central America* (p. 5), by J. Mahoney, 2001, Baltimore: The Johns Hopkins University Press and *The Legacies of Law: Long-Run Consequences of Legal Development in South Africa, 1652–2000* (p. 49), by J. Meierhenrich, 2008, Cambridge: Cambridge University Press.

Path dependence

There are various ways of contemplating and defining path dependence. The first ‘comes out of the work of economists seeking to understand technological trajectories’ (Thelen, 1999, p. 384). Political scientists have taken this to mean that, once taken, a path can become ‘locked in’, ‘as all the relevant actors adjust their strategies to accommodate the prevailing pattern’ (Thelen, 1999, p. 385). This is also related to positive feedback and increasing returns, but tends to be too deterministic for political science according to Thelen, while Pierson (2004) has adapted a positive feedback framework for political science. The other view derives from the work of new institutional sociologists. ‘Institutions, in this view, are collective outcomes’ and ‘socially constructed in the sense that they embody shared cultural understandings (‘shared cognitions’, ‘interpretive frames’) of the way the world works’ (Thelen, 1999, p. 386). These cultural constraints limit policymakers in redesigning institutions (Thelen, 1999).

According to Nielson, Jessop, and Hausner, several studies of transitions to democracy use path dependence in the following way: ‘Path-dependency suggests that the institutional legacies of the past limit the range of current possibilities and/or options in institutional innovations’ (cited in Thelen, 2004, p. 28). This is applicable both ‘at the policy level and at the level of institutions’ (Gains, John, & Stoker, 2005, p. 27). Regardless of whether the focus is on administrative reforms in Western Europe or in Central and Eastern Europe, the legacy explanations ‘tend to come to the same conclusion, namely that the legacy of the past is a hindrance to administrative innovation’ (Meyer-Sahling & Yesilkagit, 2011, pp. 311–312). One explanation for how a break occurs ‘from a path dependent line [...] is that policies or institutions are knocked out of their path dependencies by external and largely unpredictable shocks to the system’ (Gains, John, & Stoker, 2005, p. 28). This explanation is not ‘entirely satisfactory’, however, and there are several other explanations for deviations from path dependence (e.g. political actors searching for a strategic advantage) (Gains, John, & Stoker, 2005, pp. 28–29). Introducing changes is easiest during critical junctures, but before moving to this phase, it is worth emphasising several other features of path dependence. To this end, scholars of economics, political science, and sociology ‘assert that particular events in the past can have crucial effects in the future’ and these events may

be “temporally lagged” – i.e. not initially felt but clearly visible at a later point in time’ (Mahoney & Schensul, 2006, p. 457).

The path dependency framework explains persistence in institutions in general and is usually used to support certain key claims, which have been well summarised by Pierson:

Specific patterns of timing and sequence matter; starting from similar conditions, a wide range of social outcomes may be possible; large consequences may result from relatively “small” or contingent events; particular courses of action, once introduced, can be virtually impossible to reverse; and consequently, political development is often punctuated by critical moments or junctures that shape the basic contours of social life. (2000, p. 251)

Many have warned about concept stretching in the case of path dependence (e.g. Pierson, 2004; Rixen & Viola, 2015). As a result, Rixen and Viola propose a taxonomy of institutional change, but advocate a narrow definition of path dependence, pointing out that ‘the two defining attributes of path dependence, ... are that it is endogenous and exhibits increasing returns’ (2015, p. 303). This definition is not suitable for analysing local government because the final decisions on local government institutions and change are made mainly at the state level and therefore they are not strictly endogenous. Hence, we have to apply a broad definition²² which also includes exogenous causal factors.

Critical junctures

Historical institutionalists often divide the flow of historical events ‘into periods of continuity punctuated by ‘critical junctures’, i.e., moments when substantial institutional change takes place thereby creating a ‘branching point’ from which historical development moves onto a new path’ (Hall & Taylor, 1996, p. 942). Collier and Collier define a critical juncture as ‘a period of significant change, which typically occurs in distinct ways in different countries (or in other units of analysis) and which is hypothesized to produce distinct legacies’ (1991, p. 29). They have noted that a critical juncture can be a quick transition, but also an extended period that might correspond to a prolonged ‘regime period’, for example. This means that a critical juncture can be a change point, but also a period of transition. It is worth emphasising that the importance of a critical juncture can be established ‘only with reference to a specific historical legacy’ (Collier & Collier, 1991, p. 33). Collier and Munck (2017) have recently developed and proposed a framework for studying critical

²² The determination of the broad and narrow/restricted definition is subjective. For example, Pierson (2004, p. 21) claims that he uses path dependence in his book in a ‘relatively restricted sense’, according to which path dependence refers to ‘social processes that exhibit positive feedback and thus generate branching patterns of historical development’.

junctures (see Table 3.1). Table 3.1 also demonstrates that there are still many open issues related to critical junctures.

Table 3.1 *Critical juncture framework*

	Antecedent Conditions	Cleavage or Shock	Critical Juncture	Mechanisms of Production	Legacy
Over-view	Diverse features of economy, society, and politics. May include the legacy of prior critical junctures. Source of rival hypotheses for explaining outcomes attributed to subsequent critical juncture.	Critical juncture routinely seen as growing out of a fundamental societal or political <i>cleavage</i> : center-periphery, church-state, land-industry, owner-worker. In some cases should be called a shock: debt crisis of the 1980s, 9/11 attack in 2001.	Major episode of institutional innovation that generates an enduring legacy. Examples: Neoliberal transformation, innovation in legal system, restructuring of church-state relations, boundary-definition in new states, creating new institutional structures for labour unions.	Steps through which the legacy emerges. In some cases, the features of the critical juncture map directly onto legacy. In others, complex reactive sequence. Increasing returns as causal mechanism	Durable, stable institutions Mechanisms of reproduction. i.e., sources of stability that sustain the legacy. Relevant causal concepts include self-replicating causal structure, freezing, lock-in, stickiness, and path dependence. Rival hypotheses: "Constant causes." A distinctive kind of rival hypothesis
Issues and Debates	(1) Contingency v. determinism. Can "critical antecedents" strongly shape the distinct forms taken by the critical juncture? Challenge to idea that critical juncture itself is characterized by contingency.	(1) Danger of conflation. Distinguishing between cleavage or shock and the critical juncture itself. E.g., not the "9/11 critical juncture" in the U.S., but the "post-9/11 critical juncture." (2) Cleavages and shocks do not necessarily produce a critical juncture. Likewise, a critical juncture could occur without a prior cleavage or shock.	(1) Contrasts in the critical juncture. What are the different ways in which a critical juncture occurs? (2) Establishing equivalence among diverse historical episodes. (3) Synoptic versus incremental change. (4) Contingency v. determinism. Contingency a defining feature of critical junctures?	(1) The question of hindsight. How much is needed to evaluate a reactive sequence? What research strategies are appropriate if hindsight is insufficient?	(1) Danger of conflation. When is a juncture "critical"? (2) The question of hindsight. How much time is needed to evaluate the legacy? (3) Can chronic political instability be interpreted as a stable legacy? (4) Contingency v. determinism. Is the self-replicating causal structure of the legacy inherently deterministic?

Source: Collier and Munck, 2017, p. 3.

Soifer (2012) has taken this a step further by adding a causal logic element, and distinguishing two types of conditions during critical junctures – permissive and productive. Permissive conditions ‘represent the easing of the constraints of structure and make change possible’, while productive conditions, ‘in the presence of the permissive conditions, produce the outcome or range of outcomes that are then reproduced after the permissive conditions disappear and the juncture comes to a close’ (Soifer, 2012, p. 1573). Hence, both conditions must be present to have a critical juncture (see Figure 3.2).

		Permissive conditions	
		<i>Absent</i>	<i>Present</i>
Productive conditions	<i>Absent</i>	Status quo	Crisis without change or missed opportunity
	<i>Present</i>	Incremental change	Critical juncture

Figure 3.2 Permissive and productive conditions and outcomes
Source: Soifer, 2012, p. 1580.

More precisely, permissive conditions are ‘those factors or conditions that change the underlying context to increase the causal power of agency or contingency and thus the prospects for divergence’ (Soifer, 2012, p. 1574). Soifer proposes that the duration of a critical juncture ‘is marked by the emergence and disappearance of a set of permissive conditions’ because these conditions ‘mark a window of opportunity in which divergence may occur’ (2012, pp. 1574–1575). ‘Productive conditions can be defined as *the aspects of a critical juncture that shape the initial outcomes that diverge across cases*’ and these ‘alone are insufficient to produce divergence in the absence of the permissive conditions that loosen the constraints of structure and make divergence possible’ (Soifer, 2012; emphasis in the original).

In comparative-historical analysis, ‘the concept of critical juncture applies only to the analysis of *path-dependent* institutions and not to all forms of institutional development’ (Capoccia, 2015, p. 147; emphasis in the original). The critical juncture framework also includes mechanisms of (re)production, which are ‘the factors that are sufficient to keep an outcome in place after the factors that produce it have disappeared’ (Soifer, 2012, pp. 1576–1577), as shown in Table 3.1 above.

3.1.2 GRADUAL CHANGE AND RESURRECTION OF THE PAST

Explaining gradual change

One of the main critiques of institutionalism, and historical institutionalism in particular, is that it is incapable of coping with change or explaining change (e.g. Peters, Pierre, & King, 2005; Greener, 2005; Schmidt, 2008). For Peters et al. (2005), a fundamental theoretical question is ‘whether historical institutionalism can stand alone as an approach to understanding change *and* continuity in politics and policy’ (2005, p. 1277). Since the majority of the research conducted in the framework of historical institutionalism is qualitative, the determination of change is more a matter of judgement than of measurement (Peters, Pierre, & King, 2005, p. 1286).

Vivien A. Schmidt highlights two problems of historical institutionalism when it comes to explaining change: ‘the institutions it defines have a tendency

to be overly ‘sticky’ and it lacks agents of change’ (2008, p. 4).²³ Strictly speaking, substantial change takes place only at critical junctures. The ‘punctuated equilibrium’ model suggests ‘that institutions either persist or they break down as a result of some exogenous shock or environmental shift’, but empirical findings are often different (Thelen, 2002, pp. 99, 101). The critical juncture is not always present and the change is not always remarkable. Sometimes it is incremental or gradual. In order to take such adjustments into account, Streeck and Thelen (2005, p. 8) suggest that one should ‘distinguish between *processes* of change’ (incremental vs. abrupt) and ‘*results* of change’ (which ‘amount to either continuity or discontinuity’):

		Result of change	
		Continuity	Discontinuity
Process of change	Incremental	Reproduction by adaptation	Gradual transformation
	Abrupt	Survival and return	Breakdown and replacement

Figure 3.3 Types of institutional change: processes and results
Source: Streeck & Thelen, 2005, p. 9.

Furthermore, Streeck and Thelen (2005) have identified four modes of gradual institutional change:

- Displacement – occurs ‘as new models emerge and diffuse which call into question existing, previously taken-for-granted organizational forms and practices’ (Streeck & Thelen, 2005, p. 19). Therefore, the replacement of existing rules with new ones can be expected to take place in ‘transformative, system-wide change’, and the possibilities of political veto are weak (Carey, Kay, & Nevile, 2017).
- Layering – new rules are introduced to modify existing ones, via amendments, revisions, or additions. The concept combines some elements of increasing returns and even ‘lock-in’ with elements of institutional innovation. ‘Schickler argues that institutional innovators often have to work around some institutional features that are locked in, but they can add on other elements in ways that do not just reproduce or extend the old institutions, but actually alter the overall trajectory’ (Thelen, 2002, p. 102). In some cases, layering is a tool that policymakers actively seek and use, and the possibilities of political veto are strong (Carey, Kay, & Nevile, 2017).

²³ Along the same lines, Peters et al. (2005) emphasise the importance of incorporating a dynamic conception of agency and also political conflict into the historical institutionalist approach to provide an adequate explanation for change. The political conflicts take place not only in the periods of critical juncture or at formative moments, but equally during path dependent or stable periods.

- Drift – the failure ‘to update formal rules when shifting circumstances change the social effects of those rules in ways that are recognized by at least some political actors’ (Hacker, Pierson, & Thelen, 2015, p. 184). This can occur when a gap manifests itself between rules and enforcement (Mahoney & Thelen, 2010).
- Conversion – ‘the transformation of an already-existing institution or policy through its authoritative redirection, reinterpretation, or reappropriation’ (Hacker, Pierson, & Thelen, 2015, p. 185). Conversion follows ‘the idea that institutions that were forged at one historical juncture, and thus as the product of one particular set of conflicts and interests, can in fact undergo a kind of transformation as they get redirected to new ends’ (Thelen, 2002, p. 103). One way this can happen is through the inclusion of new groups. In the event of conversion, we may identify institutional continuity, without noticing that the institutional functioning has changed considerably (Pierson, 2004, p. 138).

‘Yet processes of drift and conversion can be observed only in analyses that are at once configurational and attentive to changes unfolding over significant periods of time’, therefore, ‘methodologically, it encourages a shift toward case-based analyses of configurations and historical process’ (Hacker, Pierson, & Thelen, 2015, p. 182). Mahoney and Thelen emphasise that the tools are especially relevant for explaining gradual change when the institutions have already been established; in addition ‘gradually unfolding changes may be hugely consequential as causes of other outcomes’ (2010, pp. 2–3). In the case of incremental or gradual change, the basic elements or basic structure remain intact. The probability of a specific change depends upon whether the veto possibilities of the actors are either high or low (political context), and whether the level of discretion of the institution in question is high or low.

Revival of institutions

Due to the fact that central to the analysis is the way in which interwar institutions have impacted the design of post-communist institutions, it can be proposed that legacies form a crucial part of this phenomenon. That said, even if according to LaPorte and Lussier (2011, pp. 651–652) ‘conceptual and empirical analyses display meaningful differences between work in the historical institutionalist tradition and that developed within the legacies paradigm’, they recognise that both sides can gain ‘by rigorously integrating the study of communist legacies with historical institutionalism’. The basic question is how to define the terms because only some authors include the term *legacy* in the definition of path dependence.

We can identify at least three types of repetitions in history: replication, recurrence, and reproduction (Collier & Mazzuca, 2006). While replication refers to ‘repetition across different places’, recurrence refers to ‘repetition over time within the same place’ (Collier & Mazzuca, 2006, p. 476).

Reproduction, on the other hand, is for Collier and Mazzuca a temporally continuous form of repetition and therefore it is about temporally enduring institutions and structures. All three can appear as a causal pattern, but may also be a coincidence. Hence, as we are more interested in causality than coincidence, we should focus on the next aspect – legacy.

There are at least two types of potential pre-communist legacies. The first concerns the features ‘that are present in both the pre-communist and post-communist periods but not during the communist period itself’ (Wittenberg, 2015, p. 373). The second type concerns the features that are present in all three periods, namely also in the communist period. Metaphysically speaking, the first ‘is the most controversial path because it is not clear what it means for a phenomenon to disappear and then come back’ (Wittenberg, 2015, p. 373). Wittenberg has provided a possible answer in his earlier paper for the sameness of the phenomenon in different periods. His suggestion is in the same vein as Collier and Mazzuca’s above. In other words, according to Wittenberg (2013), it is not enough that the phenomenon is the same in two different time periods, we should also make sure that ‘the phenomenon is not caused by any underlying conditions in the latter period’. One way to explain the reappearance of a pre-communist legacy is that during the communist period the legacy was temporarily frozen and was reactivated during the post-communist period (Illner, 1996).

Legacies involve processes of ‘reproduction, recombination, resurrection, and redeployment through which practices and beliefs embedded by an earlier regime find new or renewed meaning over the long term, within a different macrohistorical context’ (Kotkin & Beissinger, 2014, p. 19). An example of the resurrection of a Soviet-era practice in contemporary Russia is the reintroduction of cadre reserve lists by Putin after more than a decade-long hiatus (Huskey, 2014, p. 117). Although Huskey recognises the difference between the post-communist cadre reserve lists and those in Soviet times, he emphasises that the model is the same. Furthermore, he proposes that the cadre system was revived in Russia mainly because the same factors were present in both periods.²⁴ Despite the fact that it might be a strategic choice by the elites and hence a challenge to the legacy argument, the past has influenced the likelihood of certain practices re-occurring in the country compared to other countries.²⁵ Although Huskey focuses on practices, the lists exemplify a

²⁴ These factors were lack of confidence in ‘the ability of a free market in labor to produce the necessary personnel for leading posts in state and society; a general preference for technocratic solutions to problems – in this case the conceit that one can advance state interests by employing a scientific approach to elite recruitment; and the desire of those in power to control who rises to political prominence in the next generation, and thereby assure their own longevity in office’ (Huskey, 2014, p. 118).

²⁵ Huskey (2014, p. 118) emphasises that ‘the point here is that the past has framed the alternatives, and elites with similar interests and even similar values in other parts of the world would be unlikely to

practice that had disappeared but which has been revived despite available functional alternatives.

Based on the assumption that historical legacies influence institutional choices, and considering the work of Collier and Mazzuca (2006), Wittenberg (2015), and Huskey (2014), it can be concluded that while in a *tabula rasa* situation all alternatives could presumably be equally possible, in reality past experiences and decisions either eliminate or make certain options less probable while increasing the probability of others.

3.1.3 HISTORICAL INSTITUTIONALISM AND CASE STUDIES

An issue that arises from time to time in relation to historical institutionalism and relevant in the context of the current research is the question: ‘Can historical institutionalists really develop valid arguments from case studies and small-n comparisons?’ (Pierson & Skocpol, 2002, p. 696). Critics sometimes claim that case studies cannot generate valid knowledge because cases are not randomly selected (Pierson & Skocpol, 2002, p. 17). Pierson and Skocpol (2002) suggest that case studies can be relevant due to the accumulation of knowledge. Similarly, Thelen states that ‘most historical institutionalists would strongly contest the idea that middle range theories developed for particular historically or regionally bounded phenomena do not ‘add up’ to anything’ (2002, p. 95).

A ‘case study’s unique strength is its ability to deal with a full variety of evidence – documents, artifacts, interviews, and observations’ (Yin, 2009, p. 11). Yet case studies are criticised for their lack of rigour in that ‘they provide little basis for scientific generalization’, and ‘they take too long, and they result in massive, unreadable documents’ (Yin, 2009, pp. 14–15). This is not always the case, however, since case studies can also be short and ‘are generalizable to theoretical propositions’ according to Yin (2009, p. 15). Theory-building from case studies can also be seen as one of the best ‘bridges from rich qualitative evidence to mainstream deductive research’ (Eisenhardt & Graebner, 2007, p. 25). ‘Case studies emphasize the rich, real-world context in which the phenomena occur’ (Eisenhardt & Graebner, 2007, p. 25), and hence a case study is an appropriate research approach for analysing local government and its institutions, allowing the development of the institutions in question to be placed into a context. Context here does not mean that we have to know everything about the particular situation, but rather that relationships should be taken into account (Pierson, 2004, pp. 169–171).

introduce cadre reserve lists because the choice would not present itself. Reviving an institution is far easier than constructing one *ab ovo*’.

3.1.4 SOME REMARKS ON RATIONAL CHOICE INSTITUTIONALISM

Rational choice institutionalism (RCI) is another form of new institutionalism. It 'developed at the same time as historical institutionalism but in relative isolation from it' (Hall & Taylor, 1996, p. 942). Within RCI, there are two main ways to think about institutions. First, they are seen as '*exogenous constraints*, or as an exogenously given *game form*', which constrain behaviour (Shepsle, 2008, pp. 24–26; emphasis in original). The second concerns the way in which 'the rules of the game [...] are provided by the players themselves' (Shepsle, 2008, p. 25) and therefore it focuses (only) on rational behaviour. Similarly to historical institutionalism, the RCI approach has dealt with both structured and unstructured institutions.

Application

Human agency is central to RCI. Given that human beings 'are only approximately rational' (Shepsle, 2008, p. 33), the notion of bounded rationality also comes into the picture. For Pierson (2004, p. 9), the critique is not so much about 'rational choice theory's assumptions about human behaviour, but about its restricted range of application' due its blind spots. RCI focuses on the 'moves' of 'actors' and has been 'far less attentive to slow-moving, long-term processes that clearly must play an important role in our understanding of the social world' (Pierson, 2004, p. 177). Added to this, game theory tools are not well-suited to 'exploring slow-moving macroprocesses' because by increasing the actors involved, the results of game theory can become unmanageably complex (Pierson & Skocpol, 2002, p. 705).

Comparison with historical institutionalism

HI and RCI 'are premised on different assumptions that in fact reflect quite different approaches to the study of politics' (Thelen & Steinmo, 1992, p. 7), despite the fact that in both schools institutions structure political behaviour (Steinmo, 2001, p. 571).

First, some of the biggest differences between HI and RCI can be found in the concepts of preferences and institutions (Katznelson & Weingast, 2005). Contrary to the historical view (institutions as a result of historical processes), RCI often 'embraces a functional view of institutions' (Thelen, 1999, p. 378) but, according to Thelen (1999, p. 400), '[f]unctionalist perspectives will not take us far, since they skirt the issue of the origins of institutions and the all-important matter of the material and ideological coalitions on which institutions are founded'.

Second, the RCI definition of the environment is more simplistic than that of HI and, for the most part, the time period covered is considerably shorter than in HI analysis (Katznelson & Weingast, 2005, pp. 5, 11). Contrary to HI, which mainly employs macroanalysis, RCI focuses on microanalysis. HI is

interested, above all, in explaining an outcome and ‘in developing a deep and contextualised understanding of the politics’ (Steinmo, 2001, p. 571), while RCI often focuses ‘on one set of rules at a time’ (Pierson & Skocpol, 2002, p. 706). For RCI, ‘the central goal is to uncover the laws of political behaviour and action’ and to create, elaborate and refine a theory of politics (Steinmo, 2001, p. 572). Rational choice institutionalists are theorists. ‘Historical institutionalists apply [an] inductive scientific method. Rational choice institutionalists, in contrast, apply a deductive model of science’ (Steinmo, 2001, p. 572).

Third, when it comes to RCI, the change occurs in two situations. ‘First, if the institution ceases to produce a satisfactory outcome for those actors who are powerful enough to change the institution, or second, if the power distribution between actors is fundamentally changed’ (Norgaard, 2001, pp. 25–26).

Overall, this is not to say that historical and rational choice institutionalism cannot complement each other. On the contrary, there is convergence between the two and in some cases they can effectively complement each other (Katznelson & Weingast, 2005; Thelen, 1999).

3.2 RESEARCH METHODS AND DATA

The main materials that have been used to answer the research questions are legislation from different periods, analytical and descriptive studies, articles written mainly by Estonian researchers and authors, interviews, and official documents (e.g. the meeting minutes of the local councils between 1989 and 1993, bills and accompanying explanatory memorandums, and parliament stenographs). Based on this, the principal research method used is documentary analysis, supported by interviews. Different types of sources were available for different periods. While for the interwar period a valuable source comprised local government associations’ journals, in the post-communist period the material consisted of the stenographic records of parliamentary proceedings. This was appropriate considering the aim of the research. For the interwar period it was essential to understand the institutions and institutional aspects of the time, while for the post-communist period it was important to understand why certain decisions were or were not taken.

A semi-structured interview format was used because it allows for a flexible interview process (Bryman, 2004, p. 321). Interviews comprised general questions, questions specific to the type of municipality, and questions based on the responses of the interviewee or on markers. The main weakness of the oral history interview ‘is the possibility of bias introduced by memory lapses and distortions’ (Grele, 1998, cited in Bryman, 2004, p. 323). To mitigate this problem, the minutes of council meetings were also examined. Five audio-recorded interviews were conducted altogether, which is a relatively small

number for qualitative research, but they were only one source of data among many, and not the principal one. In respect of the number of interviews that need to be conducted, Weiss, for one, claims that 'when further inquiry will add little to the story, stop inquiring' (1994, p. 21).

A purposive sampling technique was used for the interviews, sometimes referred to as 'a sample chosen to maximize range' (Weiss, 1994, p. 23). Maximizing range ensures that the 'sample contains instances displaying significant variation' (Weiss, 1994, p. 23). The main criterion for the selection of interviewees was that each person would have some experience of the local soviet, as well as the local council or government. The advantage of this was that the interviewees themselves were able to compare the two different systems and the transition. In addition, some interviews were conducted with people who had direct experience of only one system. Criteria such as the geographical location and size/type of the municipality were also considered.

The anonymity of the respondents was respected due to the possibly sensitive nature of issues during the Soviet period. This was arguably beneficial for the research since there were occasions when an interviewee preferred to pause the recording for a few minutes to talk about certain aspects.

The most challenging part concerned conducting research into the Soviet period due to the lack of sources. Estonian historian David Vseviiov (1999) has concluded that although much historical literature on the socialism era was published during the Stalin years, it has almost no factual or theoretical value. In addition, the '1950s thus became the first decade to experience the production of a Soviet view of Estonian history' (Rebas, 2005, p. 425). These publications only demonstrate the efforts that were made to preserve and present Soviet Estonia's history for the present and future (Vseviiov, 1999). At the same time, Vseviiov (2003) claims that it is possible for historians to write 'true scientific history about Estonia in 1940–1991'; historians just need special 'glasses' to accomplish the task.

4 LOCAL GOVERNMENT IN 1918–1940: THE PERIODS OF THE PARLIAMENTARY REPUBLIC AND THE ERA OF SILENCE

There is no legal principle that could compete in Estonia with the idea of self-government by age, continuity, and development.

Uluots (1933, p. 159)

In 1933, Estonian prime minister and law professor Jüri Uluots compared Estonian self-government to a juniper tree, which, although it is not beautiful,

is strong and tough; it has stayed from century to century despite different winds, whether they come from the west or the east, whether from the north or from the south. A lightning that comes with a storm does not destroy it, because juniper has the quality to keep itself attached to the land; if you break one branch, the others will not go to rack and ruin. (1933, pp. 159–160)

Local self-government in general, and rural municipalities in particular, play an important role in Estonia's history, which will be described in this chapter. Indeed, during the time of the establishment of the Republic, the local self-governments were the only organised authorities to whom national tasks were also entrusted, in addition to local self-government tasks (Saar, 1927, p. 178).

The period from 1918 to 1940 in Estonian history can be divided into at least two sub-periods or even four (e.g. Sootla & Laanes, 2015). Estonia gained independence in February 1918. 'The Republic emerged as one of the most liberal democracies anywhere in the world. It was a state whose political foundations were sculptured by the democratic left' (Parming, 1975, p. 7). However, a military coup was staged in March 1934, and the second half of the 1930s has henceforth been described as the 'Era of Silence'. In 1934, county self-government as a democratic local government unit was abolished and, with an amendment to the City Act, the local autonomy weakened. When we take a look at the rest of Europe during the same period, we find quite a long list of countries where liberal democracies were replaced by dictatorships. Parming (1975, p. 5) has claimed that the Estonian case is interesting because the authoritarianism in the country was 'a pre-emptive authoritarianism'.

This chapter will describe the main characteristics and developments of Estonian local government between 1918 and 1940 (i.e. the interwar period). The focus is on local government legislation, local autonomy and local democracy. As developing an electoral system can be seen as part of developing a democracy (Taagepera, 2002, p. 284), local elections are also covered. Finally, the last section of the chapter provides a summary analysis of the main points of the development of selected institutions during the

interwar period. The main aim of the chapter is to provide, in conjunction with Chapter 5, the context for the analysis of local government at the beginning of the 1990s.

4.1 GENERAL CONTEXT

The period of the First Republic (i.e. the interwar period) was characterised by political instability at the state level. At the beginning of the 1920s there were 'three large blocs of parties: the socialists on the left, the agrarians on the right, and a variety of smaller parties in the centre' (Kasekamp, 2010, p. 106). There was no single, strong party which could represent several different groups in society. From February 1918 until June 1940, Estonia had 27 cabinets. 'The problem was that parties would continually desert the cabinet in the hopes of striking a better bargain with other groups' (Siaroff, 1999, p. 111). In the first four parliaments (*Riigikogu*), that is, from 1920 to 1932, 10–14 parties were represented. In the fifth parliament, there were six parties (Parming, 1975, p. 17). This demonstrates the claim by Reeve and Ware (1992, p. 9) that there is a connection between the adoption of proportional representation soon after the 'vote was extended to most of the population' and a highly fragmented party system. The post of Minister of the Interior (or Minister of the Court and the Interior)²⁶ was held by no less than 18 different men during the period in question.

Frequent cabinet turnover (including Interior Ministers), and the ensuing low political stability, is one factor which can be blamed for the poor and fragmented legislation governing local government in that period. This also serves to complicate the identification of general tendencies during the period.

Olle (2001, p. 44) has claimed in his research on the interwar local government in Estonia that identifying the responsibilities of local government before the adoption of the acts on local government at the end of the 1930s would require 'an extremely labour-intensive and time-consuming legal analysis', and hence he focused mainly on the Rural Municipality Act of 1937 and the City Act of 1938. Moreover, Eugen Maddison (1927a), who was Secretary General at the Ministry of the Interior, has said that most of the Estonian legislation of that time did not contain references to the legislation it amended or repealed: '[t]hat weakness does not get much attention, because a new act amends the previous act despite whether it has been mentioned in the new act or not' (p. 37).

²⁶ The Ministry of the Interior and the Ministry of the Court were merged in 1929, but in 1934 the two Ministries were separated again.

The main local government units – cities and rural municipalities

Local government units in 1917 comprised cities, towns (*alevid*), rural municipalities, and counties. Cities were mostly subordinated to the Ministry of the Interior, while for rural municipalities there was an additional link in the form of a county between the rural municipality and the state. The legislation also clearly distinguished between cities and rural municipalities when it came to their tasks, revenue base, supervision, and so on.

In 1920, there were twelve cities²⁷ and eight towns²⁸ altogether. By 1938, the number of cities had increased to 33 (Dolf, 1938, p. 5)²⁹ because in that year all towns were renamed as cities.³⁰ Towns (*alev*), as separate administrative units, were created in 1917 (Reino, 1998, p. 124) and have existed at different periods in Estonia, but as they have been a temporary phenomenon or their number has remained small, the following chapters and sections do not address them in detail, if at all.

Rural municipalities were created in 1816–1818 based on the ‘territorial distribution of manorial estates’ (Krepp, 1938, p. 57). A solid legal basis for the rural municipalities was created in 1866 with the Act on the Parish Administration in Baltic Provinces (*Baltimaa vallakogukondade valitsemise seadus*), which was in force with amendments until 1937 (Schneider, 1992, p. 7). During 1923–1938 there were few amalgamations and little establishment of new rural municipalities (Uuet, 2002, p. 54), the last major amalgamation taking place in 1890–1892 (Krepp, 1938, p. 17). Discussions about the optimal size of the rural municipalities were held throughout the 1920s and 1930s, while an extensive administrative-territorial reform was implemented in 1938–1939. This was not only due to the size of the rural municipalities, but also to the fact that in 1936 there were still around 40 municipalities, whose territory was divided, with different parts of one municipality being situated in the territory of another municipality (*lappvallad*) (Velner, 1936b). After the administrative-territorial reform,³¹ the number of rural municipalities was decreased from 365 to 248 as of 1 April 1939. The reform was prepared in cooperation with geographers from the University of Tartu (the leading figures

²⁷ Haapsalu, Kuressaare, Narva, Paide, Paldiski, Petseri, Pärnu, Tallinn, Tartu, Valga, Viljandi, and Võru.

²⁸ Jõgeva, Jõhvi, Kilingi-Nõmme, Narva-Jõesuu, Nõmme, Otepää, Tapa, and Türi.

²⁹ From 1921 to 1926, town rights were granted to Antsla, Kunda, Kärkla, Mõisaküla, Põltsamaa, Võõpsu, Kallaste, Mustvee, Sindi, Tõrva, Elva, Suure-Jaani, Keila, and Mustla. In 1926, five towns were granted city rights at the request of their citizens – Nõmme, Põltsamaa, Tapa, Tõrva and Türi. Otepää was granted city rights in 1936 (Uuet, 2002, pp. 34–37, 53).

³⁰ In 1938 the cities were divided into groups – capital city, first-level cities (more than 50,000 inhabitants), second-level cities (10,000–50,000 inhabitants), and third-level cities (less than 10,000 inhabitants).

³¹ The reform concerned mainly the rural municipalities.

being Edgar Kant and Endel Krepp³²) (Kurs & Tammiksaar, 2001, p. 59), and the local conditions were taken into account. The borders of only 20 rural municipalities remained unchanged (Olle, 2001, p. 13).

Table 4.1. *Rural municipalities by size (number of inhabitants)*

Number of inhabitants	1922	1930	1934	1939
- 1000	66 (17.5%)	50 (13.3%)	60 (16.3%)	4 (1.6%)
1001-1500	138 (36.5%)	77 (20.5%)	73 (19.8%)	2 (0.8%)
1501-2000		64 (17.1%)	70 (19%)	13 (5.2%)
2000 -	174 (46%)	184 (49.1%)	166 (45%)	229 (92.3%)
Total	378	375	369	248

Sources: 1922 – Kohver, 1929, pp. 5–6; 1930 – Maaomavalitsus, 1930, pp. 179–180; 1934 – Feldman, 1938a, p. 35; 1939 – Loorits, 1938, pp. 167–168.

The parish (*kihelkond*) has been a historical administrative unit in Estonia since the 13th century, but its relevance had decreased by the beginning of the 20th century. Although the idea of establishing parishes was considered on several occasions when drafting local government acts (e.g. in 1920, and in the 1990s), it usually lacked strong support and was dropped. Parishes were too big to replace rural municipalities and too small to replace counties.

4.1.1 DEVELOPMENT OF THE LEGAL FRAMEWORK

It took almost two decades to establish Estonia's own special laws on local government. It is questionable whether the delay can be better explained by path dependence or by the frequent change of cabinets. As will be demonstrated below, several of the drafted bills did not aim to introduce fundamental changes to the system inherited from the time of the Russian empire, but only to anchor into the legislation the system that already existed, with limited modifications. Before broaching the subject of the special laws, an overview of local government in the constitutions will be provided.

Pre-constitutional acts and constitutions

According to Kliimann (1935), the three main steps towards the establishment of national independence were:

³² According to one analysis (Krepp, 1938, pp. 46, 61–62), the optimal size of a rural municipality would have been 2,000–3,000 inhabitants because in the case of bigger municipalities a visit to the centre of the commune (communal house, school, post office, doctors, church, etc) would be burdensome and more expensive.

- Decision of the Provincial Assembly of 15/28 November 1917³³
- Manifesto of 24 February 1918
- Temporary Regime of the Governance of the Republic of Estonia, adopted by the Constituent Assembly (*Asutav Kogu*) on 4 June 1919

The decision of 1917 is considered to be the first pre-Constitution (Kliimann, 1935, p. 54), declaring that the supreme power belongs to the Provincial Assembly.

The manifesto of 1918 was more of a declaratory act than a constitutive one (Kliimann, 1935, p. 60). It defined the counties of the Republic of Estonia. The final determination of the state borders in those counties bordering Russia and Latvia was to be decided by the referendums after World War I. With the manifesto, the city self-government, county self-government, and rural municipality self-government authorities were called to immediately resume their operations, which had been violently interrupted earlier. The county governments restored their operations for the most part in November 1918 (e.g. Viljandi, Pärnu, Tartu); activities prior to that were mostly performed in secret (Ant, Kessel, & Pajur, 1999, pp. 245–246, 250, 257).

The Temporary Regime of the Governance of the Republic of Estonia of 1919 was – as its name indicates – a temporary constitution. It declared that Estonia is an independent democratic republic, where the supreme power of state is vested in the people and the Constituent Assembly exercises supreme power on behalf of the people. However, it did not contain any reference to local government.

Constitutions were adopted in 1920, 1933, and 1937.³⁴ While the Constitution of 1920 was adopted by the Constituent Assembly, the Constitution of 1934 was adopted through a referendum, and the Constitution of 1938 by the National Assembly (*Rahvuskogu*).

Chapter VII of the Constitution of 1920 regulated the local government institutions. Specifically, it stipulated the directly elected local councils and the local governments' right to impose local taxes. As Section 75 stipulated that 'Through the self-government bodies the State Power exercises the local governing insofar as there is no special institution created by law', there was an inherent risk that, if the central government wished, it could create special institutions and, in so doing, transfer the power away from the local government authorities. The Constitution as a whole has even been considered to be 'ahead of its time' in comparison with several other countries (Truuväli, 2008, p. 34). It also had its flaws, however, inasmuch as the parliament had too much power compared to the government (Truuväli, 2008, p. 133) and 'it lacked a system of checks and balances' (Merusk, 2007). The Constitution's main creators – the Social Democrats and the Labour Party – managed with

³³ Provincial Assembly decision on supreme power of 1917 (*Maanõukogu otsus kõrgemast wõimust*).

³⁴ As these Constitutions entered into force in 1920, 1934, and 1938 respectively, these are referred to as the Constitutions of 1920, 1934, and 1938.

their allies to oppose the amendment of the Constitution until 1932, when the political powers favouring the amendment gained the majority in parliament (Truuväli, 2008, p. 133).

People rejected the Constitution amendments in the referendums of March 1932 and June 1933. The amendment proposed by the Veterans (or veterans of the War of Independence, *vapsid*) was adopted in the referendum on 14–16 October, 1933. The modifications to the Constitution were significant enough to talk about the Second Constitution (e.g. Truuväli, 2008, p. 136). At the state level, the power was now vested in the State Elder and the power balance was again not achieved. The main implication for local governments was that the second level of local government was abolished, that is, counties were no longer considered to be local government units, but a level of state administration. One reason behind the change was that the ‘counties, contrary to relatively weak rural municipalities and cities ... represented potential opposition to the central government and this was the case throughout the so-called “Era of Silence”’ (Mäeltseemes, 2006). Laaman (1937, p. 364) has also indicated that one possible motive for the abolishment of the counties was that they were the local strongholds of certain political parties due to their formation structure. Hence, the purpose was to eliminate the political rivalry (Schneider, 1992, p. 10).

Moreover, nor did the Constitution of 1938 leave local government untouched because the two-tier local government system was established again, albeit differently from the one that existed before 1934. The second-level local government was composed of delegated representatives of city governments and rural municipality governments (Mäeltseemes, 2001, p. 45), and for that reason counties could not be regarded as a level of local self-government. The Constitution no longer listed the types of local government units, but allowed the organisation of local government to be determined in the legislation.

‘According to the Constitution adopted in 1920 and the amendments adopted in 1933, local self-government in Estonia was state managed, although communal local self-government had historically been characteristic of Estonia’ (Mäeltseemes, 2006). The turning point from one theory to another was the period of Russian Provisional Government, as the 1917 regulations reflected the state-centred local government theory (Olle, 2001, p. 9).

Steps towards the special laws on local government

In the 1920s and for most of the 1930s, local government was still regulated by the Act on the Parish Administration in Baltic Provinces of 1866 and the City Act of 1892, which had both been amended several times, including major amendments in 1917. The new acts were not adopted until the late 1930s: the Rural Municipality Act was adopted in 1937, and the City Act and County Act in 1938. The special acts were comprehensive in nature, as the City Act of 1938, for example, also repealed, in addition to the City Act of 1892 (the 1915 version

with later amendments), those acts regulating city revenues, expenditures, supervision, and elections. Olle claims that it was natural to apply the previous legislation for a certain period during independence, to the extent that it did not contradict the Constitution and later acts (*lex posterior derogate prior*) (2001, p. 21). In addition, the lack of new special acts can partly be explained by the frequently changing cabinet composition at the state level.

The fact that the special laws on local government were not adopted until 1937/38 does not imply that the adoption of these acts would have been considered irrelevant. Drafts were developed, but for one reason or another they never became legislation.

Work on the special laws on local government started as early as 1917. The Local Government Committee of the Constituent Assembly approved a draft of the Estonian Local Government Act (hereinafter “ELGA”) on 18 May 1920 (Asutava Kogu Omaavalitsuse komisjon, 1920, May 18). It was on the agenda of the Constituent Assembly session of 7 September 1920, where the majority were in favour of deferring discussion, as it was an important issue and there was insufficient time to adopt the act before the end of the term (Asutav Kogu, 1920, September 7). In the explanatory memorandum (see Riigikantselei, 1921, p. 2), it was dubbed ‘a practical constitution’. The draft act was based on the system that had already been established; the traditional local government units were functioning and they would have ‘risked losing the existing foothold’ by creating a new system (Riigikantselei, 1921, p. 2). If parishes had been established as the main local government units, the legislation from the Russian time would have had to be substantially amended, and this would have been time-consuming (Riigikantselei, 1921, p. 4). Therefore, at least in the short run, the costs of departing from the set path would have been too high compared to keeping those institutions that had already been created, pointing to the existence of a self-reinforcing process or positive feedback, which generates path dependence. The explanatory memorandum also reveals that in defining the competences of local government units, it was not possible to take Prussia’s draft City Act as an example because Estonia still had to consider the legal framework from the Russian time. While separate legislative acts for rural municipalities, cities, and counties had existed until the 1920s, ELGA tried to combine all three acts into one as the majority of provisions on city, county and rural municipalities would have been identical (Jans, 1921, p. 138).³⁵ One of the most challenging issues was how to divide or determine the scope of powers in general, and between a rural municipality and a county in particular (Jans, 1921). The Local Government Committee chose the Anglo-American system over the continental system (Jans, 1921, pp. 138–139). It was decided that the scope of activities of the local authorities would be framed as broadly as possible to avoid any distancing from the power (Jans, 1921, p. 139). The two local government bodies, namely the council and the government, had representative and executive functions respectively. The latter functioned in

³⁵ Cities preferred to have a separate act of their own (Jans, 1921, p. 138).

accordance with the powers conferred on it by the council. ELGA was not adopted because the Constituent Assembly ended its activities in December 1920.

In February 1921, the Local Government Committee of the parliament decided to table the same draft of ELGA for the government to peruse in order to ascertain their position on the issue. The new government did not deem it appropriate to establish one common act for different types of local government units, nor did it support the idea of listing the functions of the local government in the act. It was duly decided that new, separate draft acts for different types of local government units would be prepared (Kiiver, 2010, pp. 47–48).

In November 1922, the government submitted drafts of the City Act, the Rural Municipality Act and the County Act to parliament, none of which became legislation (Jans, 2008, p. 640). The draft City Act was partly based on the respective acts in Germany (Siseministeerium, 1922). It was felt that these draft acts took too centralized an approach, and hence the local government representatives continued to support the ELGA draft of 1920 (Avikson, 1924a; Kiiver, 2010, p. 70). A new government was formed on 2 August 1923, after which parliament returned all the bills, and the Ministry of the Interior started to develop new acts, which in practice were just amendments to the proposals (Kiiver, 2010, p. 70). After that, attention shifted to the Rural Municipality Act and several bills/principles were prepared.

The Ministry of the Court and the Interior submitted the principles of rural municipality organisation in January 1930. This was followed by the draft Rural Municipality Act in August of the same year. The bill (see Kohtu- ja Siseministeerium, 1930) foresaw the amalgamation of rural municipalities with less than 1,000 inhabitants with neighbouring ones, providing that their natural location allowed it (Section 3 of the bill). The decision on amalgamation would have been made by the Minister of the Court and the Interior after allowing county governments and rural municipality councils to present their views (Section 4), but in the absence of agreement among the lower tiers, the Government of the Republic could also take the decision (Section 5). The Association of Estonian Municipalities proposed 83 specifications or amendments to the bill (Eesti Maaomavalitsuste Liit, 1930). Their proposals mainly aimed to increase the rights of counties and rural municipalities to be consulted.

Local government associations wanted to actively participate in the process of developing local government legislation. They stressed that taking their opinions into consideration when ministries were drafting the acts would help the bill to gain support in parliament, and consequently facilitate its implementation (Avikson, 1928a). One of the conclusions of the second congress of local government associations in 1928 was that ‘while developing new acts and regulations, the views of the local government associations should be considered’ (Eesti Linnade Liit, 1928, p. 115).

The ELGA bill of 1920 was the most democratic of the bills. In the later bills, which constituted separate acts for cities and rural municipalities, the approach was more centralised. In 1934, the amendments to the City Act of 1892 and the Act of 1926 on rural municipality³⁶ increased the powers of the Minister of the Interior and county governments, but also those of the local executive. The first special acts on local governments as institutions that were adopted and enforced were the Rural Municipality Act of 1937, the City Act of 1938, and the County Act of 1938. Elements of these three acts will be introduced in the following sections. The acts served to increase the power of the rural municipality and city government, especially that of the mayor, and decreased the council's power.

Lundver has claimed that a local government crisis had developed by 1926, mainly because the central government had established special entities or appointed special officials to exercise state authority at the local level, instead of allocating the tasks to local governments. In essence, this reduced the powers of the latter (Lundver, 1991, p. 334), the likelihood of which had increased with the Constitution of 1920. Although Lundver comes to the same conclusion as Csekey (2008) in attributing the crisis to weaknesses in the system in 1930, several attendees of the Legal Scholars' Days of 1931 found that it was not appropriate to talk about a crisis per se (see Eesti Juristide Liit, 2008).

Considering the lack of a single comprehensive legal framework for local government until 1937/1938, it is a challenging task to map its different aspects (e.g. functions and powers) up to that time. From the perspective of the municipal law discipline, Olle (2001, p. 21) also regarded the prevailing legal circumstances as just too complicated to provide an exhaustive analysis of the powers of local government (e.g. territorial, organizational, and financial power) until 1937/38. In addition, he emphasises that local governments themselves did not always have a proper overview of the legislation regulating their activities. This is illustrated by the fact that in 1927 the Cities Association translated and published a codification of the City Act of 1892, which was specifically needed by cities that acquired city rights in 1926 (Eesti Linnadeliit, 1927, p. 16).

³⁶ The Act on the Election of Rural Municipality Councils and the Organisation of Rural Municipality Councils and Governments (*Vallavolikogude valimise ja vallavolikogude ning vallavalitsuste korraldamise seadus*) of 1926 included some provisions on the government and the council of a rural municipality (in addition to provisions on the elections, which formed the main part). In general, it is not regarded as a special act for rural municipalities (e.g. Loorits, 1939; Kiiver, 2010).

4.1.2 THE RISE AND FALL OF COUNTY GOVERNMENT

In search of a role for county government

In the modern sense, the history of counties as democratic local government units in Estonia dates back to the Russian Revolution of 1917, although from the territorial point of view the counties started to develop as far back as the Middle Iron Age (Olle, 2001, p. 19). The governing bodies of the counties were established with the legislation³⁷ adopted in March 1917. County council elections took place on 24 and 25 June, 1917 and the county councils commenced their activities from 1 July, 1917. The executive bodies (county governments) were established later (Avikson, 1927b, pp. 188–189). In some places, the county councils were elected on a local initiative even earlier (e.g. in Võru in March 1917) (Kohver, 1927, p. 195). In December 1917, the county governments were abolished by the Bolsheviks. After the Bolsheviks fled from occupying German forces in February 1918, the county governments became active again, but this state of affairs only lasted a month (Avikson, 1927b, p. 191) because of the German invasion. The county governments subsequently convened again in November 1918, after the occupation had ended.

Rural self-government³⁸ was established during the Russian period based on the Russian three-tier model (rural municipality, county (or *kreisiomavalitsus*), and provinces (*kubermang*)). Estonia became an independent state, and the third tier of rural self-government – the Provincial Assembly – took over governing the state; the first and second tiers – rural municipalities and counties – remained (Maddison, 1927b). There was only one tier for cities as they were subordinated to the state level.

The conclusion of a meeting held in April 1919 between the Minister of the Interior and local government representatives was that the local government institutions needed to be reorganised and also that the number of counties should be increased from 9 to 20–25 (Asutav Kogu, 1919, col. 204). During the period from 1888 until 1920 there were 9 counties altogether.³⁹ Two new counties – Valgamaa and Petserimaa – were established in 1920. These 11 counties remained until the end of the interwar period.

Although the county governments played a crucial role in establishing the independence of the state, there were calls for county reform in the 1920s, at both the state and the local level. In 1928, the chairman of Võru county

³⁷ Regulation on Temporary Arrangement of Administrative Governance and Local Government of Governorate of Estonia of 1917 (*Eestimaa kubermangu administratiivse valitsemise ja kohaliku omavalitsuse ajutise korraldamise määrus*) and Internal Rules of County Council (*Maakonnakohtukogu kodukord*) of 1917 – both were supposed to be temporary measures, but they were partially in force even in 1937.

³⁸ 'Rural self-government' includes the rural municipalities and the county municipalities.

³⁹ Harjumaa, Järvamaa, Läänemaa, Pärnumaa, Saaremaa, Tartumaa, Viljandimaa, Võrumaa, and Virumaa.

summarized the main reasons for the dissatisfaction with the counties as follows: ‘the country is small; the number of posts for officials should be decreased; small rural municipalities are unviable; county councils have become political parliaments, hence these should be abolished; people change due to party considerations too frequently; local governments have too much independence’ (Kohver, 1928, p. 250). Other reasons that were cited included inadequate regulation of county powers in the legislation and the contradiction between large responsibilities and small financial resources (Jans, 1928, p. 251).

One of the obstacles to abolishing the county governments concerned the issue of who should take over their tasks and responsibilities. The rural municipalities could not handle everything, and nor could the Ministry of the Court and the Interior perform the supervisory tasks (over the legality of decisions) in as many as 375 rural municipalities for that matter. Hence, the municipalities considered the reform to be a better option than the abolishment of the county level.

One of the reasons for the establishment of the Estonian Counties Association (later the Association of Municipalities of Estonia⁴⁰) in 1921 was the increasing centralisation (Raud, 1931, p. 286). Raud (1931), a founding member of the Counties Association, was very critical of politicians’ changing views on the relevance of the county governments, depending on whether they themselves were in power in the counties or not.

In 1929, the Association drafted the main principles for the county and rural municipalities acts (see Eesti Maaomavalitsuste Liit, 1929), largely describing the system that was already in place at the time. In 1931, the Association presented a new set of basic principles (see Eesti Maaomavalitsuste Liit, 1931), but this time for the reorganisation of county self-government. Their proposals for the composition of the county council and government were as follows: (1) the county council would be elected directly by the citizens or would be composed of representatives of the rural municipalities. The latter would have required an amendment to the Constitution; (2) under the legislation in force, the county government had to have at least four members; the principles proposed three members (or in small counties on the approval of the Minister of the Interior only one member – county governor) and a reduction in the minimum required number of meetings. As a result, the Association’s proposal would have probably helped to cut the administrative expenditure.

Cooperation between different types of local government units was enhanced in 1925 in at least two ways. First, the Counties Association presented a proposal for the Association’s new statute to the central government, which would also allow rural municipality membership of the

⁴⁰ Rural municipality representatives started to participate in the council of the Counties’ Association in 1927, hence the name of the Association changed to cover both counties and rural municipalities.

Association. Second, in 1925 the Counties Association and Cities Association established a common committee to discuss questions of general interest (Avikson, 1926, p. 164). The first meeting of the committee took place in January 1927 (Maaomavalitsus, 1927). As of 1925, all counties were members of the Counties Association.

The Association, which was initially established as an association of counties, did not limit its activities vis-à-vis the central government to commenting and proposing legislation. It also sought to represent the interests of the rural municipalities. One example concerns the nationalisation of certain lands and buildings in the rural municipalities. For instance, some school buildings that were constructed with rural municipality resources were nationalised along with the manorial estates. The problem stemmed from the fact that property owners had given lands to rural municipalities for the building of schools, for example, well before the Land Act came into force, but this transaction was seldom registered in the land register, and was based on a verbal agreement. In 1923 the Counties Association sent a proposal to the central government to add a note to Section 4 of the Land Act of 1919, whereby the lands and buildings that were used by the rural municipalities for schools would be given to the rural municipalities for free, and registered in the land register accordingly (Avikson, 1924b). Despite that, the property remained in the possession of the Ministry of Agriculture and the rural municipalities had to pay rent. The Association sent another draft act to the Ministry of the Interior in 1927 (Avikson, 1928b, p. 4), but the issue remained unresolved into the 1930s.

Temporary county governments

The county self-governments were replaced in 1934 with temporary county governments. This process involved contingency, but also demonstrated the hardships related to changing the established institutional structure. In 1932, the Ministry of the Court and the Interior developed the principles for the reorganisation (Vellner, 1933, p. 5) and a bill for the County Act. In September 1933, the new Minister of the Court and the Interior, Wiktor Rooberg, submitted the bill on the abolishment of county government to the Government of the Republic, which submitted it to the parliament within the same month. The bill (see Kohtu- ja Siseministeerium, 1933, September 21) set the date of abolishment as 1 April, 1934. The reasons presented in the explanatory memorandum were the ones listed above by Kohver. Additional reasons were that (i) counties were too big in terms of territory to comply with the requirements set for local governments, (ii) the tasks of the county governments were more the tasks of the central government than local ones, and (iii) the county governments did not take the interests of the rural municipalities sufficiently into account. The most noteworthy reason was that the 'county governments are deemed to hinder, like other local governments, the implementation of the state's straightforward financial policy with the

activity that comes from the rights given to them' (Kohtu- ja Siseministeerium, 1933, September 21, p. 4). This argument was not elaborated, but in 1930, in a similar vein, the Head of the Tax Department of the Ministry of Economics blamed local governments for spending while the state was attempting to cut its expenditure (Linnad ja Alevid, 1931). Under the bill, the county governments were to be replaced with local state authorities and the county governor would have become a member of staff of the Ministry of the Court and the Interior. The bill contained the main principles and entrusted the Government of the Republic with adopting specific regulations or decisions. The bill did not become law, however.

The crucial point, or contingency, in the development of the county governments was the adoption of the Constitution in 1933 instead. Section 75 of the Constitution did not mention the counties as local government units: 'the State exercises the governing at the local level through city, town and rural municipality self-governments, if no special authorities have been established in legislation'. Although the provision could be interpreted in several ways, the prevailing interpretation was that the types of local government units were limited to the ones listed in Section 75. An alternative interpretation would have implied a constitutional guarantee for city, town and rural municipality self-government, but still have allowed county self-government to exist.

The county self-governments were abolished as of 24 January 1934⁴¹ and replaced with temporary county governments. The Act on Temporary Governance of the Counties was, according to the explanatory memorandum, an act to implement the Constitution of 1934. The county governments had had a wide range of functions – according to the Government of the Republic, the abolishment implied amendments to more than 70 legal acts. The responsibilities of the council were transferred to the temporary county government and any decisions that required council approval were to be approved by the Minister of the Court and the Interior, or by another minister if it was foreseen in the law (Section 6 of the Act on Temporary Governance of the Counties). Under the Constitution, only the local government units had the right to collect local taxes and therefore the counties could no longer retain this right. However, the Act stipulated that counties could still collect the taxes that they had established prior to January 1934, to cover operational expenses.

After the establishment of the temporary county governments, one possible way forward would have been to grant rural municipalities the same powers as the cities. For example, Melesk claimed that it was unjust that 'the same task in a city that is entrusted to city government belongs to the representative of the central government in a rural area' (1934, p. 43). Similarly, an unnamed villager or group of villagers was quoted as saying that 'Rural municipality residents are currently awaiting a new local government act as if they were waiting for the sun to rise, whereupon all citizens and self-governments would

⁴¹ Act on Temporary Governance of the Counties of 1934 (*Maakondade ajutise valitsemise seadus*).

be placed at the same level' (Ühe küla häääl, 1934, p. 43). Needless to say, this did not happen.

The most pertinent question during the changes in 1934 was who should take over the tasks of the county government. Should it be the national authorities or the rural municipalities? In his speech (see Postimees, 1935) delivered in January 1935, Päts, in his capacity as the State Elder, indicated that the question of how to organise those tasks that the county governments had fulfilled for years had still not been resolved.

The Act of September 1936, which amended the Act on Temporary Governance of the Counties, granted the Government of the Republic the right to reduce the number of staff of the temporary county government. It also stipulated that the Government of the Republic would appoint the members of the temporary county government, and remove them from office. This provision clearly made the county government a state authority.

(Re-)establishment of the two-tier local government system

The Constitution of 1938 did not determine the local government units as narrowly as the Constitution of 1934. By stipulating that 'The organization of the second instance of the local self-governing institutions and the rules for the formation of their representative assemblies shall be determined by law', Section 123 of the Constitution again created a two-tier local government system. Following that, the County Act was issued on 19 April 1938 as a decree of the Head of the State. According to the Explanatory Memorandum of the Act (Siseministeerium, 1938, April 7), the Act sought 'on the one hand to strengthen the position and capacity of the county self-government's bodies and, on the other, to intensify the contact between the county self-government and central government, to achieve a second tier self-government that is viable and acting in the interests of the state and people'.

The county level was no longer the same local self-government that it was prior to 1934. This can be explained, among other reasons, by the fact that the President appointed the county governor, and the members of the county council were not elected directly by the people. The county governor was a state representative in the county and the leader of the county government. He had the right to report directly to the President of the Republic and the Prime Minister. The main differences compared to the pre-1934 arrangement were as follows:

Before 1934	Based on County Act of 1938
<ul style="list-style-type: none"> • Cities subordinated to the state level and only rural municipalities and towns to the county level. • Members of county council elected by the residents of the rural municipalities and towns. • County council appointed the chair of the county government. • The bodies of the county self-government comprised the county council (including the audit committee) and the county government. 	<ul style="list-style-type: none"> • In addition to rural municipalities and towns, cities (except the capital and first-level cities) also subordinated to the county level. • Members of the county council elected from the rural municipality mayors and city elders of the third-level cities by the plenary of the rural municipality mayors and city elders. • President appointed the county governor, who was directly subordinated to the Minister of the Interior. • The bodies of the county self-government comprised the council, county governor, county government and plenary of the rural municipality mayors and city elders (advisory body). No audit committee because oversight of the county government's reporting and activities was the task of the central government bodies.

The County Act of 1938 contained several elements similar to those of the City Act of 1938 and the Rural Municipality Act of 1937. One of these was an increase in the power of the executive or the leader of the executive body, including the duration of his mandate being longer than that of the representative body.

The new body – the plenary of the rural municipality mayors and city elders (*valla- ja linnavanemate täiskogu*) – was to increase the proximity of the county government and the rural municipalities and city governments (Maddisoo, 1938, p. 135). The new organisation has been compared to a pyramid, where the plenary is at the bottom and the county governor at the top (Reintalu, 1938). As the county governor was a state representative in the county, and there was also the plenary, all three levels were better connected, although the new county government was no longer as strong a balancing power vis-à-vis the central government as it was before 1934, because instead of being a local self-government body, it was now integrated into both the state and the local level.

4.2 LOCAL AUTONOMY

When it comes to the differences between cities and rural municipalities, the two main differences were related to supervision and financing. Furthermore, both of these aspects are related to central-local power relations.

4.2.1 SUPERVISION

A prevailing question in central-local relations concerned the supervision of the legality of local government activities and decisions. At the end of 1918, the Temporary Government assigned a commissar to every county as a representative of the central government. This was only a minor adjustment compared to what was set out in the City Act of 1892. According to the Regulation on Commissars of Temporary Government of 1918, the commissar's main responsibility was to ensure that the authorities were implementing the legislation appropriately and acting within the law – essentially supervising the legality of their work. For this purpose, the commissar had the right to suspend the implementation of local government decisions if they were not in compliance with the law, to conduct investigations if necessary, and so on. The commissar worked under the auspices of the Ministry of the Interior, and was obligated to report to the Minister of the Interior at least once a month. In August 1919,⁴² a decision was made to place all the supervisory powers under the jurisdiction of the Minister of the Interior because the commissars' term had come to an end and there was no wish to appoint new ones. Henceforth, the local governments were asked to send all their decisions, or a copy of the minutes, to the Ministry of the Interior. It is not entirely clear why the post of commissar was abolished, although a circular letter of August 1919 stated that the Government of the Republic saw no benefit in appointing new commissars before the local government legislation was drafted and enacted. In addition, at the beginning of 1919, the Ministry of the Interior had informed all county governments that all local government authorities should deal directly with the Ministry of the Interior and not approach the Temporary Government directly.⁴³

The Temporary Act on Local Government Supervision was adopted on 11 October 1919. It confirmed that the supervision of the legality of local government activities was under the jurisdiction of the Minister of the Interior. The supervision of cities and counties was implemented through the representatives of the Minister, while the supervision of rural municipalities and towns was performed through county governments.

Maddison (1927a, p. 37) claimed that the wish to ensure the broad independence of local government was aptly inscribed in the Temporary Act on Local Government Supervision of 1919 because it implied that the supervision could only be exercised based on this Act. This is questionable, however. Even though the Temporary Act of 1919 covered only the legality aspect, the City Act of 1892 set out the supervision by the Minister of the Interior over the content of the bylaws (Section 110), and that provision was also in force after 1919 (Dolf, 1927, p. 60).

⁴² Circular letter (of 1919) to all city, county, town, and rural municipality governments (*Kõigile linna-, maakonna-, alevi- ja vallavalitsustele*).

⁴³ Circular letter (of 1919) to all county governments (*Kõigile maakonnavalitsustele*).

All the decisions of the city council, including any annexes, were sent by the mayor to the supervisory authorities. The list of decisions for which approval by the Ministry of the Interior was required before taking effect was presented in Section 79 of the City Act as of 1927. The list included, for example, decisions on the transfer of immovable property, borrowing and providing guarantees (above a certain limit), and signing contracts with private undertakings. In March 1934,⁴⁴ the list of decisions requiring the Ministry's approval was supplemented with a budget, a report on its execution, and bylaws.

In order to suspend the execution of local decisions, the higher-level authorities had to refer the matter to the administrative court. In 1921, if not earlier, the Minister of the Interior realized that this was too burdensome. He also recognized that not all local municipalities had 'books' with legislation concerning local government, and therefore councils often took decisions that were not in line with the law (Siseministeerium, 1921, August 29, p. 1). To address this shortcoming, the Ministry proposed that the supervisors should suspend the local decisions and provide the local authorities with justification for doing so, allowing them to either amend a decision or refer it to the administrative court (Siseministeerium, 1921, August 29, p. 1). The bill concerning the amendment of the local government supervision act was sent to the parliament, but soon recalled. This principle was introduced in December 1934 in a decree instead,⁴⁵ which also foresaw that the central government had the right to suspend the activities of the council of the local government that was experiencing serious solvency problems. In such a case, the tasks of the local council and local government would have been assigned to the city's or rural municipality's government, which was appointed by either the Government of the Republic or the Minister of the Interior. By 1937, this right had been exercised for one rural municipality and one city (Siseministeerium, 1937, January 25, p. 19).

In May 1934 an additional clause⁴⁶ was added to the Act of 1919, which enabled the Government of the Republic to remove from office mayors, members of local government, including members of the temporary county government, and secretaries of cities, towns, and rural municipalities if their activity was deemed detrimental to the state or local interests. In March that same year, the Government of the Republic's powers in appointing mayors was increased, which heralded a new principle in local government organisation. With these two measures, the central government increased its control over local government, especially if we consider that the county level, which was one of the actors balancing the central government, was weakened with the establishment of the temporary county governments.

⁴⁴ Decree Amending the City Act (1934) (*Linnaseaduse muutmise dekreet*).

⁴⁵ Act (of 1934) Amending and Specifying the Legislation related to Local Governments (*Omavalitsustesse puutuvate seaduste muutmise ja täiendamise seadus*).

⁴⁶ Decree (of 1934) Specifying the Temporary Act on Local Government Supervision (*Omavalitsuse ajutise järelevalve seaduse täiendamise dekreet*).

An indication that changes in the first half of 1934 increased the Ministry of the Interior's workload vis-à-vis local governments was the amendment⁴⁷ of the Government Organisation Act in November 1934, which created a separate self-government department within the Ministry. The department was responsible for the 'organisation, management and supervision of self-governments and minority culture self-governments'. The fact that the Ministry of the Interior sought to implement its new powers in practice too is reflected in the explanatory memorandum of the amendment (Siseministeerium, 1934, October 30), where it is clearly stated that the Ministry's responsibilities in the 'active management and organisation' of self-government authorities would increase significantly.

All of these changes in 1934 increased the powers of the supervisory authorities as well as central government control over the local authorities. The speeches of the state leaders in January 1935 emphasised further changes – the decrease in the competence of the council and the increase in the competence of the mayor and central government (Vellner, 1935, p. 4). Vellner referred to these developments as 'deconcentration'.

The Rural Municipality Act of 1937 and the City Act of 1938 contained a chapter on supervision and repealed the Temporary Act on Local Government Supervision of 1919. The Ministry of the Interior was responsible for supervision of the cities (except for the third-level cities, which were the responsibility of the county governor⁴⁸). The rural municipalities were under the supervision of three bodies – the Ministry of the Interior, the county government, and the chair of the county government. The supervision covered the legality and expediency of local government activities. The latter was limited to those cases specified in the legislation. For example, the approval of the supervisory authority was still needed for the budget adopted by local councils and for taxes and tax rates. The central government had to be able to trust those people responsible for governing at the local level, and one way to ensure this was by granting the Minister of the Interior greater powers in appointing the local officials, and removing them from office (Siseministeerium, 1937, January 25, pp. 18–19).

4.2.2 LOCAL GOVERNMENT FINANCES

During the period under discussion, opinions were voiced to the effect that the central government had conferred tasks on the local governments, but not the appropriate measures or independence (see Postimees, 1930; Saar, 1927) and funding (Postimees, 1926; Lauri, 1923, p. 3; Loorits, 1936, p. 20). This leads to the assumption that there was administrative decentralisation without

⁴⁷ Act (of 1934) Amending and Specifying the Government Organisation Act (*Valitsemise korraldamise seaduse muutmise ja täiendamise seadus*).

⁴⁸ According to a diary kept by Eduard Laaman (2004), the Ministry of the Interior was already considering subordinating cities to the county level in January 1937.

adequate fiscal decentralisation. Before going into detail, we have to acknowledge that the available financial data for the period is incomplete and not entirely comparable for at least two reasons. In the case of cities, the budgetary procedures were harmonised from the financial year 1922 (Neuhaus, 1926, p. 1), which is also the reason why the budgetary data for the years prior to 1922 is not available in a consolidated format. In addition, data on the rural municipalities' income and revenue is missing or not comparable during the first decade because the Statistical Office did not start to collect detailed data on taxation until 1927 (Pullerits, 1928, p. 68).

In 1930, Nepe (1930) claimed that 'Estonia is the most centralized state in the whole educated world' based on the expenditure of the state and local government in different countries, because the share for the state and local government was 80% and 20% respectively. The indicative change in sub-national expenditure and state expenditure in relation to GDP is presented in Figure 4.1, which shows that during the 1930s local government expenditure compared to GDP remained unchanged for the most part. In the case of the cities, the average increase in expenditure in 1926 compared to 1925 was 26.2% (Eesti Linnade Liit, 1928, p. 90). This partly reflects the increased state support for streets and roads (Neuhaus, 1928, p. 317).

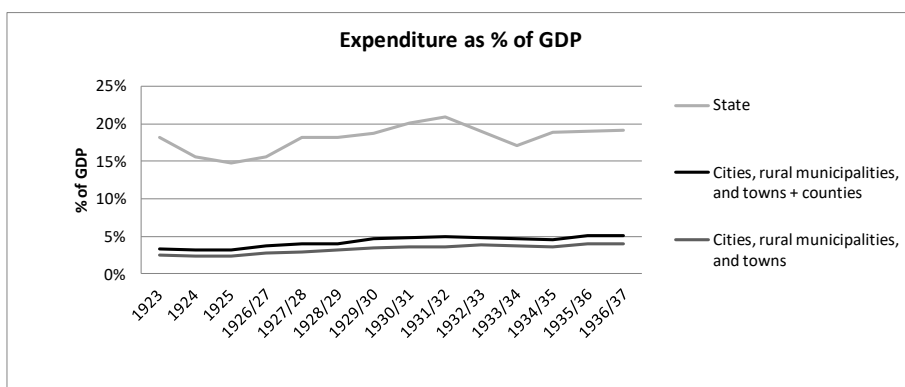


Figure 4.1 Local government and state expenditure as a percentage of GDP, 1923–1936/37
 Source: Author's calculations, based on Feldman (1928, 1931, 1938b, 1938c, 1939), Neuhaus (1927b, 1929), Riigi Statistika Keskbüroo (1937), Valge (2003, p. 2712).

All three Constitutions stipulated that local governments have the right to collect taxes, within the limits set by the law, for the purpose of performing their tasks. Local governments obtained revenues from three sources: (1) autonomous sources of revenue (e.g. local taxes, revenues from municipality enterprises); (2) subsidies (i.e. share of state's tax revenue); and (3) grants from the Treasury (Selter, 1931, pp. 20–21). Suursööt (1924, pp. 146–147) claimed in 1924 that the main source of conflict or contradiction between the local government and the state was the issue of local government revenues.

The first congress of local government representatives in October 1924 adopted a resolution in the area of taxes, which included a claim that one of the measures needed for the local government authorities to survive and function effectively was 'to develop and quickly enforce a new local government tax act whereby revenues appropriate for local government expenditures would be ensured' (Eesti Maakondade Liit ja Eesti Linnade Liit, 1925, p. 142). Four years later, there was still no new tax act. At the congress of 1924 and 1928, it was concluded that if local governments were entrusted with new tasks, then the relevant sources of revenue should also be indicated in the acts (Eesti Maakondade Liit ja Eesti Linnade Liit, 1925, p. 142; Eesti Linnade Liit, 1928, p. 115).

In the first half of the 1930s, local government revenues decreased mainly due to the economic downturn, but also for cities due to legislative amendments⁴⁹ (Velner, 1936c, pp. 146–147). The ordinary income of cities was 19.55% smaller in 1935/36 compared to 1930/31, while for rural municipalities the decrease was 40.68%, and in the case of the state 16.76% (Loorits, 1936, p. 19). The decrease was bigger for rural municipalities because their revenues depended mainly on tax income, while for cities it was a question of business activity (Loorits, 1936, p. 22).

'An important prerequisite for the exercise of local fiscal autonomy is ... the ability to choose tax rates' (Oulasvirta & Turala, 2009, p. 314). While in 1920 the state had determined the maximum rates for most of the local taxes (local government taxation powers were subject to capping), from 1921 onwards the local municipality could determine the rates, with few exceptions (e.g. head tax, whose maximum rate was set by the state). The maximum rates set by the local councils were to be approved by the Minister of the Interior by consulting the Minister of Finance. In 1926, the parliament adopted an act⁵⁰ amending two earlier acts and setting out the arrangement that the Minister of Finance had to approve the tax rates that the local municipalities had determined. The reason was purely practical – to decrease the administrative burden, as the Ministry of the Interior was only an intermediary (Siseministeerium, 1926, March 13, p. 2). Avikson (1927a) was of the opinion that the Amending Act of 1926 was not appropriate – under the Temporary Act of Local Government Supervision of 1919, county governments were responsible for the supervision of the legality of the rural municipalities, but as the Minister of Finance was duly required to approve the tax rates of the counties and rural municipalities, the 'supervisory authority cannot supervise as foreseen in the act' (p. 38).

Discussions on tax reform started in the second half of the 1920s, but the question of possible new taxes only came onto the agenda in 1929/30 due to

⁴⁹ For a list of the legislative amendments affecting the revenues and expenditure, see Loorits, 1936, pp. 19–20.

⁵⁰ Act (of 1926) Amending Local Government Tax Acts (*Omavalitsuste maksuseaduste muudatuste seadus*).

difficulties in balancing the state budget (Selter, 1931, p. 13). The head of the tax department at the Ministry of Economics noted in his report to the Minister of Economics in 1930 (Linnad ja Alevid, 1931, p. 137) that local government at that time was not dependent on the central government, but the other way around, largely because the local government tasks were not anchored in the legislation and the central government could only count on the accommodating approach of local governments in implementing state tasks. Therefore he concluded that the state tax reform could not be accomplished without local government tax reform. Moreover, he said that it was unfair that local governments themselves could determine the basis for taxation, as in that case citizens and enterprises in different municipalities would be treated differently.

The revenues and taxation powers of cities were different from those of the rural municipalities. Hence, cities and rural municipalities will be dealt with separately in the next section.

Cities

At the beginning of the 1920s, cities were in a better financial situation than rural municipalities and counties (Lauri, 1923, p. 3). In 1922–1925, their budget was in surplus, which in turn was used to increase reserves or to pay off loans (Neuhaus, 1927b). During the early years of independence, the ceiling for several local tax rates set in 1917 was increased considerably (between five- and tenfold).⁵¹

From 1917⁵² and in the 1920s cities had the right to apply 29 different local taxes,⁵³ plus the ones stipulated by special laws. Of those 29 taxes, however, 23 could only be levied when the revenues from the city's assets and enterprises⁵⁴ were insufficient to cover the expenditures of the city. Over the years, the structure of the revenues changed. For example, while in Tallinn in 1916 the tax revenue was 6.7% of all revenues, in 1928/29 it was 39.1% (N., 1930, p. 29). Due to an amendment to the Income Tax Act, the share of income tax in the revenues decreased, while that of property tax increased in 1925 (Neuhaus, 1927a, pp. 7–8). In 1936, for example, the state share of property tax was allocated to the cities to ease their financial situation (Velner, 1936a, p. 61). The City Act of 1938 listed 26 different taxes, some of which were fees. The Act mostly stipulated maximum rates and some taxes were subject to

⁵¹ See Regulation on Increase of Tax Rate Ceilings for Cities of 1918 (*määrus linnade heaks võetavate maksude ülemmäärade kõrgendamise kohta*) and Act Amending and Specifying the Tax Acts on Cities and Towns of 1920 (*seadus linnade ja alevite maksuseaduste muutmise ja täiendamise kohta*).

⁵² Before 1917, the city taxation right was stipulated in the City Act and was limited/narrow (T., 1924, p. 34).

⁵³ Codification of City Tax Act of 1917 as of 1924 (*Linnamaksu seadus (kodifitseeritud)*), 1924.

⁵⁴ The revenues from assets and enterprises yielded about 10–20% of the total revenues. See Figure B2 in Appendix B.

approval by the Minister of the Interior. Throughout that period, the tax revenue remained broadly between 50–60% of all regular revenues. In 1936–1938, for instance, local taxes yielded around 30% of total revenue.

Rural municipalities

The Provisional Act on the Revenues, Expenditure, Budgets, and Reports of Rural Municipalities and Counties of 1920 specified which taxes could be collected by rural municipalities and which by counties, including the maximum rates set by the state. In the same year only a few minor amendments were made to a similar act on cities and towns, which had been adopted in September 1917. According to the local government representatives, at the beginning of the 1920s the revenues of rural municipalities were about 30% lower than before World War I (Lauri, 1923, p. 3). The cities and counties were in a better position (Olle, 2001, p. 24). Of the rural municipalities, those that had industrial enterprises on their territory and were able to levy taxes accordingly were in a better financial position. To ease the financial situation of municipalities, the Constituent Assembly adopted an act in 1919⁵⁵ which gave all local governments the right to collect additional taxes to cover their budgetary deficit in that year. Acts that gave local governments the right to collect additional taxes were also adopted in the years that followed. At the end of 1919, the act on local taxes of 1866 was still in force, but the Ministry of Finance considered that local governments should not collect taxes based upon it (Asutav Kogu, 1920, col. 2589–2591).

In 1920, the Constituent Assembly planned to discuss the income tax bill, which foresaw that rural municipalities' share of income tax would be only one-tenth. In April 1920, in regard to the issue, Tartu County Government sent a letter to the Constituent Assembly's committee (Tartu Maakonnavalitsus, 1920). The county government stressed that the situation whereby the majority of the municipalities' income was determined by the Government of the Republic was not appropriate. The county government also referred to the Act of 1866, pointing out that it gave municipalities more freedom to determine their revenue and expenditure, and that the Estonian Republic should place more trust in municipalities accordingly.

The different responsibilities placed on the rural municipalities (e.g. construction of new school houses) had put many of them in an economically difficult situation by 1934 (Krüberg, 1934, p. 110). They levied 12 different taxes and taxation's share of the general revenue was duly 78%.⁵⁶ Hence, there was a need to look for new sources of revenue besides taxation (Krüberg, 1934, pp. 110–111). The Rural Municipality Act of 1937 listed eight different taxes

⁵⁵ Act on Additional Taxes that Local Governments Can Levy to Cover the Deficit of 1919 (*seadus omavalitsuste heaks nende 1919. a. puudujääkide katmiseks võetavate täiendavate maksude kohta*).

⁵⁶ This figure includes both the local taxes and the taxes collected by the state and transferred to the rural municipalities.

that the rural municipalities had a right to collect, along with the maximum rates or other guidelines. Some additional taxes were set in other legal acts. In the Explanatory Memorandum of the Rural Municipality Act of 1937, it was acknowledged that the revenue sources foreseen in the Act would not resolve the financial problems of the rural municipalities.

In general, although the rural municipalities had a shorter list of possible local taxes than the cities, their revenue was more dependent upon them.

The example of head tax

In the domain of finances, head tax presents a good example of path dependence because, despite receiving much criticism, the tax was maintained mainly due to a lack of viable alternatives, and was subsequently extended to cities in addition to rural municipalities.

Head tax was contradictory in many ways, and was found to be unfair as the amount remained the same despite one's income. Such a tax was already in use during Russian times, albeit with some differences;⁵⁷ during the period of independence, it was not possible to abolish it completely because there were no alternative sources of rural municipality revenue (Velner, 1935, p. 97). With the Provisional Act on the Revenues, Expenditure, Budgets, and Reports of Rural Municipalities and Counties of 1920, the rural municipalities were granted the right to collect head tax,⁵⁸ and for more than a decade rural municipality residents had to pay it, while the residents of cities did not. The Independent Socialist Labour Party submitted a bill on abolishment of the head tax to parliament in October 1922 as they deemed it unfair (Tööliste Wõitlus, 1922), but even their interpellations were rejected (Riigikogu, 1922, col. 1362–1367). Trade unions also called for the abolishment of head tax (Ametiühisusline kuukiri, 1923, p. 65).

At the 2nd congress of local government representatives of 1928 (Eesti Linnade Liit, 1928, pp. 114–115), the resolutions of the 1st congress were recalled and it was concluded that, due to financial difficulties, a high head tax was practically the only possibility for rural municipalities to fulfil their tasks. Their proposed solution was that the whole revenue from the income and property tax should go to local governments, which would allow head tax to be abolished, and some state subsidies to be withheld. In 1932, with the amendment of the Act of 1920, the maximum tax rate was set at the national level.

While in 1923 head tax accounted for 21% of the rural municipalities' revenue, by 1934/35 it was already 41% (see Figure B1 in Appendix B).

⁵⁷ During Russian times, head tax was only collected from male residents, had no upper limit, and was increased when money was needed to build a public building. The capital reserves had increased as a result of the tax, but as these were put into Russian state securities, they were lost at the end of World War I (Loorits, 1936, p. 18).

⁵⁸ Counties and cities initially had the right to collect the tax only in certain years to cover the deficit.

Allegedly, in 1934, the mayors of the rural municipalities in Harju County were inclined to think that 'head tax is not fulfilling its purpose anymore and should be abolished, because the tax is not collected in cities and collecting it from the rural residents would make the latter second-rate citizens' (Kruberg, 1934, p. 110). Head tax was also collected under the Rural Municipality Act of 1937, with a maximum rate of 20 kroons per year.

As several towns became cities in 1926, at the end of that year the Ministry of Finance tabled a draft provisional act on an increase in revenue sources for new cities only. They justified their actions by saying that as new cities could no longer withdraw head tax and had also lost 40% of the subsidies for teachers' salaries, they were facing financial difficulties and needed additional revenues (see Rahandusministeerium, 1926, December 28, p. 2). On becoming cities, under the applicable law they would have received 40% of the income tax instead of 20%, but that would have covered only about 5% of the lost revenue (Riigikogu, 1927, col. 31). The proposed solution was that the new cities would have the right to levy head tax for a period of five years under the same principles as the rural municipalities (see Rahandusministeerium, 1926, December 28, p. 2). At the first reading in parliament, the local government committee proposed that the bill should be rejected because head tax was an outdated form of taxation that 'does not allow fair distribution of tax between citizens' (Riigikogu, 1927, col. 31–32). As a result, parliament rejected the bill.

Establishing head tax in all cities was discussed in 1924 and 1932, but did not garner enough support. In 1924, the subject was raised because the right to withhold head tax had been granted to towns, while in 1932, it was discussed in relation to the Community Act proposed by the Cities Association (Velner, 1935, p. 98). The reasons behind the proposal to establish head or community tax in cities were: (a) the need to increase the cities' revenue; (b) to harmonise the treatment of inhabitants in both urban and rural areas; and (c) to establish a closer relationship between local government and its residents (Velner, 1935, p. 99). The Ministry of the Interior supported the idea, but the Ministry of Economic Affairs was against it (Velner, 1935, p. 99).

The city community tax, which in principle was similar to the head tax, was established in June 1936 and its revenues were to be used for welfare services (Velner, 1936a, pp. 62, 64). This could be seen as a step towards decreasing the differences between cities and rural municipalities because, prior to that, if a person was living in a city and had no property or businesses there, he did not have to pay any direct tax, while in the rural municipalities and towns residents had to pay head tax. The Ministry of the Interior used the same argument in the Explanatory Memorandum on the bill of the City Community Tax Act (Siseministeerium, 1936, June 2), highlighting the fact that people from rural areas were moving to the cities to avoid paying head tax. Furthermore, the Ministry deemed it only fair that if a person had the right to vote, he also should bear financial obligations towards the local government. The City Community Tax Act of 1936 was issued as a decree by the State Elder, due to its national urgency. The community tax was also stipulated in the City

Act of 1938, with a maximum rate of 20 kroons per year, in keeping with the rural municipalities.

4.3 LOCAL DEMOCRACY AND LOCAL GOVERNMENT BODIES

Local government bodies in Estonia have traditionally been the council (representative body) and the city or rural municipality government (executive body), which is headed by a mayor. In addition, a secretary (of the city or rural municipality) and an audit committee have sometimes been specifically seen as local government bodies. Local residents elect the council members, who in turn elect or appoint the mayor.

During the interwar period, the acts on local elections were among the most frequently amended legislation concerning local government. On the other hand, the main amendments to the rules governing the roles and powers of the local government bodies were introduced in 1934 and 1937/38 by increasing the powers of the executive.

4.3.1 CONSTANTLY CHANGING ELECTORAL RULES

All three Constitutions (1920, 1934⁵⁹, and 1938) included a provision on local elections:

- Section 76 of the Constitution of 1920 stipulated that representative bodies of the municipalities ‘shall be elected on general, uniform, direct, and secret voting, based on the proportionality principle’;
- In Section 76 of the Constitution of 1934, the same elements were promulgated, but it was specified that voters should have the possibility to elect individual persons;
- In Section 123 of the Constitution of 1938, the provision regarding the election of individual persons was abolished, but a clause was added defining that ‘voters are the citizens with the right to vote, who belong to the area of the municipality, and who have a permanent residence or place of work in this area’. In addition, the direct reference to the proportionality principle was deleted and the method of allocation was left for the legislature to decide based on appropriateness.

All three Constitutions also set forth which citizens had the right to vote and which were disenfranchised in general.

Local elections were held in 1919, 1921, 1923, 1926/1927, 1929/1930, 1934, and 1939. The legislation concerning them was amended prior to almost every election. Previous to this and until 1917, the local government was based on

⁵⁹ 30 sections out of 89 were amended in the Constitution of 1920 and hence it is justified to talk about a new Constitution.

social class. The local council elections in 1917 were the first in which all citizens who were at least 20 years of age, and who lived in a city or rural municipality, could vote (Vihalem, 1963).

The mandate of the councils elected in 1917 was set to end on 1 January 1919.⁶⁰ The elections of 1919 took place under the Russia-wide rules, adopted by the Provisional Government, and under implementing rules laid out by the Estonian government (Truuväli, 1986a, p. 146). The complete new act for rural municipality council elections was adopted in 1921, and for the city council elections in 1926. Until such times, the electoral rules of 1917 continued to govern, although they were subject to amendments while they were in force. The adoption of the new act concerning city council elections in 1926 was not initiated by the government, which submitted a proposal for an amendment, but by the *Riigikogu*'s committee on local government. The latter found that there were already four acts in force concerning city council elections, so rather than amend those and create five, they decided it would be better to draft the act in full (Riigikogu, 1926a, p. 155). The most relevant change in 1926 was to limit eligibility to run as a candidate only to those on the electoral roll of the respective municipality. The subsequent significant amendments to the electoral rules were the amending acts of 1933, the decrees of 1934, and the acts of 1939.

Based on the election legislation of 1920–1921, the council mandate was for two years. In 1923⁶¹ it was extended to three years and in 1932⁶² to four years. Under the Rural Municipality Act of 1937 and the City Act of 1938, the council's mandate was for 5 years. It is worth recalling that the Rural Municipality Act and the City Act were adopted as late as 1937 and 1938. Until then, the pre-1900 acts with amendments were still in force.

Suffrage and eligibility to vote

A critical aspect of local democracy is the participation of voters. Participation can be undermined in at least three ways: 'by restricting the suffrage, by restricting the impact of elections, and by 'self-exclusion' on the part of voters' (Birch, 2003, p. 56). Suffrage rules or franchise requirements determine who can vote. Voting rights can be restricted to certain criteria – for example a voter must be at least a certain age or must meet certain residency requirements. These criteria were both in use in Estonia.

⁶⁰ Provisional Regulations on the Election of Estonia's Rural Municipality Councils of 1917 (*Eesti wallanõukogude walimiste ajutised määrused*).

⁶¹ Act on Determining the Duration of the Mandate of City and Town Councils and Rural and County Councils of 1923 (*Linna- ja alevivolikogude ning valla- ja maakonnanõukogude volituste aja kindlaksmääramise seadus*).

⁶² Act on Duration of the Mandate of Local Government Councils of 1932 (*Omavalitsuste volikogude volituste kestuse seadus*).

Age limit. The voting age was 20 years or older, although in 1939 the age limit was increased to 22. The latter was also stipulated in the Constitution of 1938.⁶³ Truuväli (1986a, p. 148) suggests that by raising the age limit to 20 years, compared to 18 years under the Tsarist rules, the bourgeoisie excluded a considerable number of workers from the ballot boxes, as at that time young people started working at the age of 16 or 17.

Place of residence. Based on the provisional regulations of 1917, in order to be eligible to vote, a person had to live in the municipality (or own real estate there) at the time of the composition of the electoral roll. In 1919, the eligibility to vote was extended to those working in the territory of the municipality. In 1926, the requirements in cities and rural municipalities diverged, with the residence of the voter being the only factor in the cities, while in rural municipalities the situation remained unchanged. The acts of 1939⁶⁴ required a person to live or work permanently in the municipality for a minimum of two years. As a rule, the voter was registered on the electoral roll based on his place of residence. If he wished to vote in the municipality where he worked, he had to submit a request for that purpose.

The situation whereby there was no minimum period of residence in a municipality in order to be eligible to vote was seen by some (e.g. Smetanin, 1925, pp. 215–216) as a threat in certain small municipalities, where a group of temporary workers had congregated, and whose votes could dominate during the local elections.

Groups deprived of voting rights. Under the provisional regulations of 1917, the right to vote was denied to those who were declared feeble-minded, as well as all those under guardianship. These rights were also taken away from anyone convicted of and punished for stealing, fraud, and several other acts, including those convicted by a court for violating voting laws (for certain years after serving their sentence), and those running brothels. The regulations of 1919 expanded these exemptions and deprived defectors and those who had failed to show up in the event of mobilisation, of their voting rights, but in 1921, this amendment from 1919 was deleted. The categories of people deprived of voting rights were also modified later. For example, in 1939 citizens doing

⁶³ During the drafting of the Constitution of 1938, the decision-makers considered both lowering the age limit and raising it, although the draft version of the Constitution set an age limit of 23 (Mägi, 1937, p. 182). Uluots, who acted as a general rapporteur in the first chamber of the National Assembly for the draft Constitution of 1938, stated in a speech (Uluots, 1937, p. 140) that it seemed to him that there were two main reasons why the voting age in the draft Constitution of 1938 was 23: first, because citizens were usually conscripted at the age of 20, and if those doing military service could not vote while those deemed unsuitable for military service could, it would be unjust towards the former; and second, because citizens were considered adults at 20 under civil law. However, there may have been a need to increase the age of majority to 21 in the future, so setting the voting age at 20 may have been inappropriate and setting it at 23 would have ensured that only adults could vote (the enacted Constitution set the voting age at 22).

⁶⁴ City Councils Election Act of 1939 (*Linnavalikogude valimise seadus*) and Rural Municipality Councils Election Act of 1939 (*Vallavalikogude valimise seadus*).

compulsory military service during the elections were prohibited from voting. This had already been considered earlier, but not implemented. Some members of the *Riigikogu* had proposed this in 1926, but when it was found not to be in line with the Constitution during discussions on military service legislation earlier that year, the idea was dropped (see *Riigikogu*, 1926b, p. 194). The Constitution of 1938 included a provision which stated that citizens doing compulsory military service could not vote. The aim was to ensure that the army and politics did not mix.

Eligibility for nomination and the nomination procedures

The eligibility criteria for a person to run as a candidate in an election presumed that he/she had the right to vote, but there might have been additional softer or stricter requirements. The age limit for a candidate was the same as that imposed on suffrage until 1939, when it was increased to 25 years of age. In the explanatory memorandum of the bill imposing this increase, the government reasoned that it wished to have ‘more experienced powers’ in the local councils. The same age limit was also set for candidates for parliamentary elections. In the initial years of the Republic, a candidate could have been from another municipality. In 1926, this was changed and the candidate had to be on the electoral roll of the municipality where he/she was running for office.

There were also special requirements concerning the number of signatures and the deposit required for being listed. The requirement in relation to the number of supporting signatures was changed several times. While 3–10 signatures were usually required for a list, in 1939 this was increased to 5–15 signatures per candidate.⁶⁵ The signatures allowed the authorities to see who was supporting certain candidates and to add them to their “black list” (Truuväli, 1986a, p. 152). A summary of the changes is presented in Appendix C. The acts of 1926 clearly set out three types of organisations/groups who could not submit a list of candidates for the elections, with the objective of banning groups whose aim was to subvert the Republic of Estonia.⁶⁶

The deposit requirement for a local election was introduced in 1933 through local election legislation, which borrowed similar provisions from the Parliament Election Act. Under the act of 1933 amending the City Councils’ Election Act, the deposit in the cities was between 25 and 150 kroons per list depending on the size of the city. In rural municipalities the deposit was 5

⁶⁵ 5–50 signatures per candidate were set out in the draft act on the city council election of 1939, but it was reduced in the parliamentary committee.

⁶⁶ Organisations and groups whose activity is aimed at (1) overthrowing/changing the existing constitutional polity by violent means, (2) ending the independence of the Republic of Estonia or separation of a part of the territory of the republic, or (3) developing propaganda denying the independence of the Republic of Estonia.

kroons.⁶⁷ Under the acts of 1939, the deposit was 10–30 kroons. The rationale for the introduction of the deposit was to ensure that only those with wide support could be fielded as candidates (Kohtu- ja Siseministeerium, 1933, September 27).

Electoral rules

The Constitutions of 1920 and 1934 determined that elections should take place based on the principle of proportionality. The Constitution of 1938 changed this, since it was decided that elections under this principle are 'discredited and a purely majority system is difficult to implement. Thereby the method of electing the local government councils was left to the legislator to decide' (Olle, 2001, pp. 7–8). One of the threats of a majority system was that smaller groups, which at the same time might be economically more important, might not be represented in the local councils (Mägi, 1937, p. 206). In addition, it may have had a negative impact on the representation of minorities.

The ballot structure was changed several times. Although voters could only submit one ballot, the number of candidates they could vote for and whether they could add additional candidates changed frequently. The initial system (a party list system) left the least choice for voters.

Under the rules of 1917, voters voted for a list and the system was based on a closed list proportional representation system. New elections were organised if elections or the whole list of a certain group were to be repealed, or additional elections were organised if there was an insufficient number of candidates on the list. Based on the City Council Elections Act of 1920, a voter had the possibility to vote for a list (by agreeing with the order of candidates on the list) or, if desired, to indicate a candidate within a list. The d'Hondt method was used for the allocation of mandates and divisors 1, 2, 3, 4, and so forth. The Rural Municipality Council Elections Act of 1921 maintained a closed list proportional representation system without the d'Hondt method and without the possibility to underline a name on the list. In 1926 the proportional system was retained, but the calculation method was modified slightly. The possibility to underline a name on the list, which was already allowed in city elections, was extended to the rural municipalities. While the parliament elections act was adopted just before the local elections act, the former was based on the d'Hondt method while the latter was based on the Hagenbach-Bischoff system (Jõgi & Avikson, 1927, p. 22).

In 1933, the act amending the City Council Elections Act and the act amending the Rural Municipality Council Elections and Rural Municipality Council and Government Organisation Act emphasised the principle of the

⁶⁷ Act Amending Rural Municipality Council Elections and Rural Municipality Councils and Governments Organisation Act of 1933 (*Vallavolikogude valimise ja vallavolikogude ning vallavalitsuste korraldamise seaduse muutmise seadus*).

election of individual candidates. The new system was developed based on the system introduced in Finland in 1906 (Klesment, 1933, p. 211; for Finland see Sundberg, 2002, p. 77) but only a few elements were included while the major parts were disregarded (Postimees, 1933). This involved combining the principle of proportionality with the principle of voting for individuals (Klesment, 1933, p. 211). Every list of candidates was composed of up to three names. The voters had several options for casting their vote and they could vote for up to three candidates. First, they could vote for the preferred ternary as it was listed, but they could also reorder the names according to preference by marking them 1, 2, and 3. There was also a so-called “white sheet” on which the voter could write up to three names; these could have been from different lists or even persons who had not been listed as candidates. It has been suggested that in several rural municipalities about 25–30% of the voters used white sheets (Päevaleht, 1934). In rural municipalities, a total of 17.3% of votes were given to persons not on the list of candidates (Truuväli, 1986a, p. 240). A vote for a candidate listed in the first position was counted as one vote, the second as half a vote, and the third as one-third of a vote. The explanatory memorandum to the act amending the Act on City Council Elections (Kohtuja Siseministeerium, 1933, September 27) mentioned that the possibility of voting for people who were not designated as candidates would be particularly beneficial in cases where certain people were not officially designated due to political intrigue.

The acts of 1939 were based on the election of individuals. The names of all candidates were presented in alphabetical order and without any indication of which party the candidate belonged to. According to the new election acts, the voters in a rural municipality had the possibility to vote for as many candidates as there were councilmen to be elected from the respective electoral district. In cities, the maximum number of candidates a voter could vote for was the total number of councilmen to be elected from the electoral district, decreased by one-fourth. Candidates were to file for candidacy on an individual basis and at least five citizens had to sign the petition for candidacy, while one person could not sign more than one petition. This can be seen as an additional restriction because previously a list could contain the names of all or several party candidates and only five signatures were required for this list to be approved.

One of the weaknesses of the rules in the 1920s was that in the proportional system with the (closed) list the emphasis was on the political parties, while persons’ abilities were secondary (Maaomavalitsus, 1924). Therefore the council of Estonia’s Counties Association proposed as early as December 1922 that reforms should be made where persons, not lists, were voted upon (Maaomavalitsus, 1924, p. 100). The closed lists were considered the main weakness of the system as the voters’ ability to participate in choosing people who would represent them in the council was limited and the parties themselves determined who they would send to the council (Postimees, 1925).

It has been suggested that the proportional electoral system, which was in use from 1918 until 1933, could have been in use longer had there not been an economic crisis, failures to amend the Constitution, and the rise of the Veterans' movement (Adams, 2009). The system introduced in 1933 was still proportional and the ternaries could be affiliated to larger groups. The change of 1939 should be viewed against the background of the state of martial law declared in March 1934, which was constantly prolonged. The government seemed to oppose the proportional system for local elections, presumably because such a system would have required citizens to become organised. Having candidates designated on an individual basis and presenting all the candidates in a single common list in alphabetical order was one of the few ways to prevent citizens from organising themselves into groups for the local elections.

Extension of the mandate and ministerial decisions

The mandate of the incumbent elected representative body was extended during the period under discussion at least five times:

- 1) On 31 December 1920, the city councils' mandate was extended by one year, until 1 January 1924.⁶⁸ A possible reason for this was that the mandate of the councils of rural municipalities was due to end then (Vihalem, 1963, p. 57) based on the Rural Municipality Council Elections Act of 1921 (Section 74). After that, the elections for the city council and the council of rural municipality were organised mainly within the same month.
- 2) By means of an act on the duration of the mandate of local government councils of 1932,⁶⁹ the mandate of local councils was extended to four years, and the mandate of councils elected in 1929/1930 until 31 October 1933.
- 3) On 31 October 1933, the parliament adopted an act on the extension of the councils' mandate, in accordance with which the mandate was extended until 15 February 1934. Under the explanatory memorandum (see Kohtu- ja Siseministeerium, 1933, July 14) on an earlier draft of the act, the possible reasoning behind the postponement of the elections was that the popular vote on the amendment of the Constitution was expected to take place at the beginning of October 1933, and hence the local elections during that month would have been technically impossible to organise.

⁶⁸ Act of 1921 on Amending City Council Election Act (*Seadus „Linnavolikogude valimise seaduse” muutmise kohta*).

⁶⁹ Act on Duration of the Mandate of Local Government Councils of 1932 (*Omavalitsuste volikogude volituste kestuse seadus*).

- 4) On 5 November 1937 the president-regent issued an act (as a decree)⁷⁰ by which the mandate of councils elected in 1934 was extended until 15 August 1939. One explanation for the extension was that the Constitution (which included a new basis for the local governments) was set to come into force in January 1938 (Postimees, 1937).
- 5) Due to the local elections legislation,⁷¹ the mandate of councils elected in 1934, which was set to expire in August 1939, was extended in May 1939 until 31 December that same year. In the explanatory memorandum (see Vabariigi Valitsus, 1939), the government justified the action by stating that as 'elections shall be held at least 25 days before the end of the mandate of the council, the new elections would be in mid-July'. This was considered inappropriate as city residents were usually away from their permanent place of residence for the holidays. This extension was re-confirmed in November 1939,⁷² the reason being that it was set out in the City Act of 1938 and Rural Municipality Act of 1937 that the mandate of the local councils was five calendar years, meaning that those councils elected in 1939 started their work on 1 January 1940. In addition, the old rural municipalities were abolished as of 31 March 1939 and the new rural municipalities started to operate on 1 April 1939 due to the changes made with regard to their borders. As of this date, the old councils ceased to exist and their tasks were transferred to appointed rural municipality governments until the following elections (Velner, 1939, p. 53).

Part of the initiative to extend the mandate also came from the local governments themselves. At the congress of the Rural Municipalities Association, held in October 1933, a decision was adopted whereby the mandates of the councils and governments of the rural municipalities would be extended until the new act on rural municipality and the new act on its elections had been adopted (Eesti Maaomavalitsuste Liit, 1933, p. 205).

There were two main cases when the mandates of certain parties were voided. The first occurred in 1925 and the second in 1934.

The results of the 1923 elections revealed an increase in the popularity of various communist parties (Truuväli, 1986a, p. 184). The Workers' United Front (*Tööraha Ühine Väerind*), created on the initiative of the Estonian

⁷⁰ Act Extending the Mandate of City, Town and Rural Municipality Councils and the Cultural Council of the German Minority's Cultural Autonomy of 1937 (*Linna-, alevi- ja vallaomavalitsuste volikogude ja saksa vähemusrahvuse kulturomavalitsuse kultuurnõukogu volituste pikendamise seadus*).

⁷¹ City Councils Election Act of 1939 (*Linnavolikogude valimise seadus*) and Rural Municipality Councils Election Act of 1939 (*Vallavolikogude valimise seadus*).

⁷² City and Rural Municipality Council Term Act of 1939 (*Linna- ja vallavolikogude volituste tähtaja seadus*).

Communist Party, gained about one-third of all votes in Tallinn, and they also received more votes in other big cities than any other party (Truuväli, 1986a, p. 182; Päevaleht, 1923). The bourgeoisie took action and several deputies of the Workers' United Front were arrested (Truuväli, 1986a, p. 185). The State Order Protection Act was adopted on 12 February 1925. In accordance with this act, the Minister of the Interior was granted powers to terminate the mandate of council members who represented parties or groups which aimed to violently change the state order set by the Constitution, to end the independence of the Republic, or to develop propaganda denying the independence of the Republic of Estonia.⁷³ Another basis for termination of the mandate was if an individual member of the council held such views. Representatives of the Workers' United Front constituted about 19.3% of all members of city councils (Truuväli, 1986a, p. 185). In the case of rural municipalities and cities where the representatives of the Workers' United Front had less than one-third of seats, their seats were filled with representatives from other groups. The bourgeoisie used a provision in the 1920 amendment of the election act which stipulated that if there were no further candidates on a certain list to fill the vacant posts in the council, those posts should be filled with candidates from other lists (Vihalem, 1963, p. 69). After the representatives of the Workers' United Front were deprived of the mandate, new elections were organised in about a dozen rural municipalities at the end of June 1925. Truuväli (1986a, p. 222) states that, despite everything, the Workers' representatives were successful in several municipalities in the new elections as well.

The decrees of the State Elder from 19 March 1934⁷⁴ gave the Minister of the Court and the Interior the power to annul the election results, to withdraw mandates, and to declare new elections in some municipalities. Three days later, the Minister⁷⁵ duly annulled the mandates of the Veterans (or veterans of the War of Independence), which they had attained from the results of the elections in January 1934. In Tallinn, for example, the Veterans had gained 47 seats out of 87 (Vihalem, 1963, p. 155). While in 1925 the seats of the deputies from the Workers' United Front were filled by candidates from other parties and groups, or new elections were organised, in 1934 the Veterans' seats were mainly left unfilled and new elections were allowed (albeit not mandatory) if the number of council members was below a certain level.⁷⁶ Truuväli (1986a,

⁷³ In parliament, several deputies of the Workers' United Front had already been arrested before December 1924 (Vihalem, 1963, p. 66).

⁷⁴ Decree (of 1934) amending the City Councils Election Act (*Linnavalikogude valimise seaduse muutmise dekreet*) and Decree (of 1934) amending Rural Municipality Council Election and Rural Municipality Councils and Governments Organisation Act (*Vallavalikogude valimise ja vallavalikogude ja vallavalitsuste korraldamise seaduse muutmise dekreet*).

⁷⁵ Decision of the Minister of the Court and the Interior of 1934 no 2388.

⁷⁶ Decree (of 1934) Amending the City Councils Election Act (*Linnavalikogude valimise seaduse muutmise dekreet*) and Decree (of 1934) Amending Rural Municipality Council Election and Rural

p. 245) also draws attention to other differences, namely that the removal of the Veterans was not as rapid as in the case of the Workers' United Front. In addition, some of the Veterans abjured their views, and members of the Farmers' Party often supported their continuance in the councils nonetheless.

The aforementioned reasons behind the electoral reforms were only the tip of the iceberg. The rationale indicated in the official documents goes only some way, if any, towards explaining the changes. There are still many grey areas in Estonian history when it comes to the 'Era of Silence', and several of these will probably remain unexplained.

Based on Lijphart's (1994, p. 13) definition of an electoral system as 'a set of essentially unchanged election rules under which one or more successive elections are conducted in a particular democracy', we cannot talk about an electoral system during that era.⁷⁷ On the contrary, we can only talk about election rules. 'Historically, ... elections have been an instrument of authoritarian control as well as a means of democratic governance' (Schedler, 2002, p. 36). One criterion for democratic elections is that they 'must be "decisive" *ex ante* as well as "irreversible" *ex post*' (Schedler, 2002, p. 41). To this end, several elections were undemocratic in Estonia. In 1921 the Trade Union list was very popular in several cities and in Tallinn they gained 28 seats out of 101, but even in April 1921, 26 out of the 28 deputies were arrested (Truuväli, 1986a, pp. 178, 180). In 1923, the Workers' United Front was successful, receiving 23–33% of the votes in major cities (Truuväli, 1986a, p. 182). The reaction to this has already been described. Moreover, when we factor in the measures against the Veterans in 1934, we have many reasons to claim that the elections were not irreversible *ex post*.

Parming (1975, p. 57) has suggested that authoritarianism in Estonia 'emerged in the process of preventing authoritarianism'. The Veterans' movement had the 'appearance of a fascist-type organisation' and by 1933 they were the largest political force in Estonia (Kasekamp, 2010, p. 109). During the city council elections on 14–15 January 1934, the Veterans gained about 42% of the votes, which augured well for their success in the following parliamentary elections and those for the State Elder (Truuväli, 1986a, pp. 190–191). These results were followed by the declaration of a state of emergency on 12 March 1934, and the annulment of the Veterans' mandates, as described above, as well as the postponement of the already announced elections of the Parliament and State Elder⁷⁸ on the grounds that due to the Veterans' propaganda, free and fair elections could not be guaranteed. Despite the measures, the city council elections in 1939 confirmed the trend of the weakening position of the ruling clique and the noticeable strengthening of

Municipality Councils and Governments Organisation Act (*Vallavolikogude valimise ja vallavolikogude ja vallavalitsuste korraldamise seaduse muutmise dekreet*).

⁷⁷ The only subsequent elections under essentially the same rules were the ones of 1926 and 1929/30.

⁷⁸ Decree Postponing the Elections of the State Elder and Riigikogu of 1934 (*Riigivanema ja Riigikogu valimiste edasilükkamise dekreet*).

democratic powers (Truuväli, 1986a, p. 194). The Veterans' success was due in part to the economic crisis (Arumäe, 2007, p. 23) coupled with their ability to win support from different classes of society, which other parties did not manage to do so effectively.

As the Veterans did not gain power at the state level, we have no way of knowing what would have been the result if they had not been banned in 1934.⁷⁹ Päts had denounced the Veterans' Constitution of 1934, stating that it 'could easily lead to dictatorial rule', but at the same time he 'adopted almost every one of the Veterans' probable ruling methods' (Parming, 1975, pp. 56–57). Parming (1975) proposes that if the new Constitution had been confirmed in the 1932 referendum, the 'pre-emptive authoritarianism would not have been a necessity'. The claim that the coup of 1934 and authoritarian regime were facilitated due to the Constitution of 1934 has been disproved by some lawyers and historians (Kenkmann, 2009).

The analysis concludes that the national government was not the sole actor influencing the initiation of electoral reforms, and that the self-interest of the ruling parties was not the main determinant. Local government associations shared their views on the electoral rules as well. We can find references (see Eesti Maakondade Liit, 1925, p. 298) that attest to the fact that the council of the Association of Estonia's Counties supported the increase in the minimum age of government members at the local level to 25 even at the beginning of the 1920s, and suggested considering it for candidates in the local councils as well. This might have been beneficial for certain political groups. If one were to take a look at the age of the candidates in Tallinn in 1921 and 1923 (Smetanin, 1925, p. 217), one would see that those under the age of 25 constituted 4.34% and 4.47% of all candidates, respectively. In 1923, 20% of the Workers' United Front candidates in Tallinn were under 25 years of age. In the right-wing parties, the proportion of candidates under 25 in Tallinn was very low or non-existent. Implementing the change would have required a change in the Constitution because otherwise the special laws would have been constitutionally inconsistent.

At the first congress of Estonia's local government figures in 1924, it was stated in one adopted resolution that the opportunity to vote for individuals should be introduced as soon as possible in the local elections (Eesti Maakondade Liit ja Eesti Linnade Liit, 1925, p. 142). The main positions that the council of the Estonian Counties' Association adopted in June 1926 as regards the local elections were that only permanent residents should have the right to vote, elections should be held every four years, only citizens residing in the respective rural municipality should have the right to be elected to the local council, and that the local elections should be based on the Finnish system (open lists) (Eesti Maakondade Liit, 1926, p. 183). The same principles were put forward in 1929 by the Rural Municipalities Association's committee

⁷⁹ The political goals of the Veterans are still rather unclear as far as historians are concerned (Velliste, 2007, p. 10).

(see Eesti Maaomavalitsuste Liit, 1929, p. 261). All of these demands were reflected in the electoral reforms of 1933 and 1939. The question remains as to why these proposals were not implemented earlier. This can only be partly explained by the Constitutional restrictions. Were the local governments' proposals implemented only after the ruling parties found them to be beneficial for themselves?

The two changes of 1939 – the increase in the voting age and the two-year residential requirement – reduced the size of the electorate. We can assume that it was the biggest reduction in the electorate during the interwar period.

Voter turnout in the biggest cities was at its lowest in 1919 and 1939. In 1919 the turnout was lower than in 1917 in several cities and rural municipalities.⁸⁰ One reason was that the Bolsheviks were not allowed to present their lists and they called on people to boycott the elections (Truuväli, 1986a, p. 174). Among cities, voter turnout in 1939 was lowest in Tallinn (33.3 or 35.4%) (Põltsamaa, with 88%, was the highest). Smetanin (1939) suggested that one possible explanation could have been the impact of the new system. The voters had to vote for individuals, but in the bigger cities it was often the case that they did not know the candidates even by name. In small cities, the candidates were familiar and it had a positive impact on voter turnout. This can be seen by comparing the turnout in 1934 with that in 1939. While the decrease was clear in the big cities, the turnout level in smaller cities was maintained.

During the first elections, the political parties determined who were at the top of the list and citizens had no opportunity to show their support for certain candidates within a list. With every reform, the voters' ability to determine who would gain a seat in the local council increased.

We cannot look at the development of electoral laws without looking at the changes to the Constitution. While each Constitution stipulated who should have the right to vote, the criterion for the right to run for the council was not determined in detail and was left to the special laws to determine. On the one hand, the changes to the Constitution necessitated introducing certain changes to the special laws. On the other hand, the Constitution limited the possibilities for electoral reform (e.g. there was a wish to deprive citizens serving in the army of their voting rights by enacting special laws).

Voters had to adapt to different electoral rules and ways of demonstrating their support for certain candidates or lists. As shown, the main changes to the electoral laws and rules were introduced in 1933 and 1939. In the case of voting rights and eligibility for nominations, the changes were often influenced by the changes to the legislation concerning parliamentary elections and the changes to the Constitution. Based on the conceptualisation of electoral reform offered by Jacobs and Leyenaar (2011), the reforms at the local government level in Estonia were predominantly minor or technical ones.

⁸⁰ In Tallinn, 35.1% of those with the right to vote actually did so (in 1917, the figure was 68.1%); in Tartu – 58.3%; Narva – 48.4%; Pärnu – 60.6% (Truuväli, 1986a, pp. 174–176).

To summarise, the special laws on local elections were generally not the main tool for influencing the election results. Frequently, the exclusion of competitors took place after the elections, mainly on the grounds of protecting the Republic, civil order, and national security. Banning certain political groups and extending the mandates of the incumbent elected local councils were also measures that were used. As the Constitution set out the basic principles on voting rights and electoral rules, it limited the scope of the reforms. Several potential changes discussed in parliament were impossible to implement as they may have contradicted the Constitution.

4.3.2 THE APPOINTED MAYOR

When it comes to the local government bodies, based at that time on Section 21 of the City Act of 1892, city self-government was composed of the city council and city government (with the executive bodies – mayor, assistant mayor(s), if any, and members of the city government). In the Provisional Regulations on the Election of Estonian Rural Municipality Councils of 1917, the Provincial Assembly determined that the rural municipality government was to be composed of the mayor, at least one assistant, and a secretary. As already indicated, mayoral power was increased in the 1930s, both in the cities and in the rural municipalities.

Appointment of the mayor

The very first city mayor of Estonian nationality took office in 1902 in the city of Valga as a result of the local elections of 1901 (Mäesalu, et al., 2007, p. 161). Since 1917, the city mayor and the rural municipality mayor were appointed by the local council, with the exception of the capital city and first-level cities after 1934.⁸¹ Until 1934, no additional approval from the central government was required. To ensure the separation of powers, the mayor could not be a member of any legislative body. Moreover, he was not allowed to hold any other post in local government or in the service of the state, apart from honorary posts.

The duration of the city mayor's mandate was equal to that of the council, except under the City Act of 1938 when the mayor's mandate was extended. Attempts to uncouple the mayor's term from that of the council had been made previously. In the draft City Act of 1922, it was foreseen that the duration of the mayor's mandate and of the members of government would not be directly

⁸¹ Under the City Act of 1938, cities at the first level had more than 50,000 inhabitants, those at the second level between 10,000 and 50,000, and those at the third level less than 10,000.

linked to the mandate of the council, but would continue for eight years.⁸² While under the previous City Act the minimum age limit for a mayor was 20 years, a proposal was made in 1922 to increase this to 25 (see Siseministeerium, 1922, March 6, p. 10). The minimum age limit was effectively increased with the City Act of 1938 to 30 years in all cities, apart from third-level cities where it was 25.

For rural municipalities, the duration of the mayor's mandate was equal to that of the council even after the Rural Municipality Act of 1937, with a minimum age limit of 25. While initially the mayor of a rural municipality was elected from among the council members, as a result of the Rural Municipality Council Elections Act of 1921, a person who was not a member of the council could also be appointed as mayor. This marked a step towards harmonising the rules governing city mayor and rural municipality mayor.

The City Act of 1892 was amended in 1934 by increasing the power of the central government in appointing the mayor. Under the Decree of 19 March 1934,⁸³ the Government of the Republic had to appoint the mayors in four cities – Tallinn, Tartu, Narva, and Nõmme. In all of these cities the mandates of more than 30% of the councilmen had been annulled (Postimees, 1934b). In the two biggest cities – Tallinn and Tartu – Army Generals were appointed as the new mayors. The Minister of the Interior claimed that they were appointed not because they were Generals, but because they were 'experienced persons' (Postimees, 1934b). The new mayor of Tartu admitted to journalists that he was not familiar with the job he had accepted (Postimees, 1934a). Neither of the new mayors made major changes with regard to the personnel of the city government and the previous mayors continued as deputy mayors.⁸⁴ In Narva, the previous mayor continued, and in Nõmme the incumbent assistant mayor became the mayor (Postimees, 1934b).

Under the City Act of 1938, the city government was composed of the mayor and city advisers. In the case of the capital city, the post of deputy mayor was also foreseen. In the smallest cities, the mayor could also be responsible for city government tasks. The mayor's term of office was six years, while the council's term was five years. The mayor of the capital city was appointed by the President of the Republic and was designated the supreme mayor. In first-level cities, the mayor was appointed by the Government of the Republic based on a nomination by the Minister of Internal Affairs. In second- and third-level cities, the mayor was appointed by the council, but had to be approved by the Minister of Internal Affairs. The mayor had to be at least 30 years old and had to have completed higher education or to have long-term experience in the

⁸² Half of the city government members were to be reappointed every four years, to ensure continuity, and also because eight years was deemed to be more appealing for qualified persons than four years, according to the explanatory memorandum.

⁸³ Decree amending the City Act (1934) (*Linnaseaduse muutmise dekreet*).

⁸⁴ Karl Luik had been mayor of Tartu since 1920 and Anton Uesson had been mayor of Tallinn since 1919.

field of governance. The requirements for third-level cities were lower: the age limit was 25 and the appointee had to have ‘sufficient education and skills to perform his duties’ (Section 81 of the City Act). The President or the Government of the Republic had the right to remove the mayor he had appointed from office if the mayor’s activity was deemed detrimental to the interests of the State or municipality (Section 389 of the City Act). The change of 1938 reflected the general tendency towards increasing control at the State level and the weakening role of the legislative/representative body.

Statutory functions and powers of the mayor

Cities. In the City Act of 1892, the mayor was a part of the city government⁸⁵ and the Act did not explicitly stipulate the duties of the mayor, but rather those of the city government as a whole. The explicitly stated duties of the mayor only entailed the general supervision of the activities of both the city government and the authorities subordinated to him/her. In addition, the mayor was responsible for issuing orders to collect notices, for preparing issues for reporting purposes, and other similar activities. The mayor also appointed the city secretary. Further, the mayor could not hold any other post in local government or in the service of the state, or be a member of the legislative bodies. A document adopted by the city council of Tallinn in 1929 (Tallinna Linnaomavalitsus, 1929), which governed the functioning of the council, city government, and departments in Tallinn, was not significantly more detailed in respect of the mayor’s functions than the City Act of 1892 itself.

The City Act of 1938, however, provided a list of the specific duties that were to be undertaken by the mayor. The mayor remained responsible for the general management of the city government’s activities and for supervising the activities of both municipal agencies and enterprises, and officials and civil servants of the city government. He/she also had the power to appoint most of the city officials and to represent the city. In relation to the council, he/she was responsible for drafting the agenda of council meetings and, as a new task, was to preside over these meetings. In third-level cities, where a collegial city government was not foreseen, the mayor⁸⁶ and deputy mayor were also obliged, in addition to the functions of mayor or deputy mayor, to fulfil those functions which, in other cities, came under the remit of the city government.

Rural municipalities. In accordance with the Act of 1866 on Parish Administration in the Baltic Provinces, the mayor of the rural municipality played a central role in the municipality. The plenary of the rural municipality elected both the council and the mayor, and hence the latter was directly elected. The council met at least once a year and the mayor’s tasks were listed

⁸⁵ City government refers to the executive body of the local municipality.

⁸⁶ In third-level cities – designated county cities – the mayor was referred to as *linnapea*, whereas in those cities which were not county cities, he was referred to as *linnavanem*.

in the law. The temporary regulations of 1917 foresaw that the council would elect the mayor from among its members. The list of tasks provided for in the Rural Municipality Act of 1937 was significantly longer than the one set for city mayors in the City Act of 1938.

The Rural Municipality Act of 1937 replaced the collegial executive body with an individual-based one. In the Explanatory Memorandum on the Act (see Siseministeerium, 1937, January 25), it was emphasised that as the mayor of the rural municipality would be given significant powers, he would also bear *full* responsibility for the wellbeing of the rural municipality. A weakness of the collegial system was that no one really took responsibility. It was also noted that at the end of the 1930s the tendency in the whole public sector was to emphasise the individual. Therefore, general issues relevant for the whole rural municipality came under the competence of the council, and the mayor was responsible for governing effectively.

Mayors in the main cities in Estonia tended to have either a military background or one connected with the law. In Pärnu, all the mayors from 1917 to 1940 had studied law or/and worked as an attorney (Pärnu linnavalitsus, 2018). Continuity can also be noted in this respect. For example, mayors serving in the cities of Tallinn, Tartu, Pärnu, and Haapsalu between 1917 and 1940 had held their post for at least 10 years. Mouritzen and Svava claim that 'the longer the mayor remains in office, the more influential the mayor is likely to be' as a public leader and that the 'amount of influence in budget and economic development decisions' is related to 'the length of time the mayor has spent in office' (Mouritzen & Svava, 2002, pp. 209, 211).

Horizontal power relations

Cities. Under the City Act of 1892, the mayor participated in council meetings with the same rights as council members, irrespective of whether he had been a councilman before taking up his duties as mayor. However, the mayor could not participate in decisions affecting issues related to his own activity, such as establishing remuneration and the revision of city government reports (Section 120 of the City Act). The council determined the mayor's salary and other emoluments, and the salary had to be determined before the election (Section 123). From 1934, the mayor's salary was determined by the President or Government of the Republic and the salary of the supreme mayor of the capital city was equal to that of a member of the Government of the Republic. The Tallinn city self-government guidelines of 1929 (Tallinna Linnaomavalitsus, 1929, p. 1) explicitly stated that the council was the highest echelon of city self-government.

Under the rules of 1892, the council decided whether there was a need for an assistant mayor and also determined the division of duties between the mayor and his assistant. If the council did not appoint any assistants to the mayor, it had to select a member of the city government for the post of deputy mayor. The minimum number of city government members was two. The city

government was accountable to the council, and had to submit reports on its activities, financial transactions, assets, and the situation in the departments.

The proposed City Act of 1922 made a clear distinction between those issues for which the mayor was directly accountable to the state level, and those for which he was accountable to the council.⁸⁷ When the mayor acted as a representative of the state, he had to obtain the council's approval only if the task included expenditure for the city or use of the city's resources (Section 62). Under the draft City Act of 1922, the city government had controlled the council and the mayor had controlled the city government (Kiiver, 2010, p. 61).

In 1938 the horizontal power relations at the local level were shifted even more than in 1934, by increasing the power of the mayor (also see Table 4.2). The City Act of 1938 again stipulated that the mayor would participate in the council sessions with the same rights as the councillors, even if he was not a member of the council (Section 33). However, the mayor was also responsible for drafting the agenda of the council session, chairing the meetings of the council (Section 37), and for determining whether a specific issue fell within the competence of the council (Section 38). In addition, if the council wished to add an agenda item or change the order of the items, it required permission from the mayor (Section 41). The mayor could also suspend the council decisions, which did not require the approval of the supervisory authority, when such decisions were in breach of the law or detrimental to city interests, and send these decisions back to the city council to be reviewed (Section 36). While under previous legislation the council members could have had certain expenses reimbursed, with the City Act of 1938 and Rural Municipality Act of 1937 this option was abolished.

Rural municipalities. The rural municipality councils were regulated in quite a similar way to those of the cities. One relevant difference was that the rural municipality council had to share competence with the county council. If there was any uncertainty over whether a particular issue fell under the competence of one level or another, the county council was the one that decided under whose competence the issue belonged (Maanõukogu, 1917/1999). The county reviewed the decisions of the rural municipality. In the county of Saare in 1919, for example, the Administrative Department of the county took nine decisions made by rural municipalities to the administrative court (Saare Maakonnaavalitsus, 1920, January 14), and a further 13 in 1920 (Saare Maakonnaavalitsus, 1921, March 7). Objections raised by the county government to decisions taken by the rural municipality were usually discussed and resolved at the following council meeting, without the need to take the decision to the administrative court (Saare Maakonnaavalitsus, 1921, March 7).

⁸⁷ Sections 60–62 of the draft City Act of 1922 (see Siseministeerium, 1922, March 6).

Under the Act of 1926,⁸⁸ the number of council members varied between 15 and 25. The council meetings were chaired by the mayor or his assistant, except when the activities of the government of the rural municipality were under discussion, in which case the council selected a person to chair the meeting from among its members. All issues related to the rural municipality, the selection of executive bodies, and the supervision of the activities of the latter fell under the competence of the council. It was possible to annul the mandate of an individual member of the council with a two-thirds majority vote by all council members.

Table 4.2 *Selected indicators of horizontal power relations*

Whether ...	City Act of 1892 (version of 1927)	City Act of 1938	Temporary regulations on election of RM councils (1917)	Rural Municipality Elections Act of 1926	Rural Municipality Act of 1937
... the mayor is directly designated by the citizens	No (appointed by the council)	No (either (i) appointed by the President, or (ii) by the Government of the Republic, or (iii) elected by the council and approved by the Minister of the Interior)	No (appointed by the council, from its members)*	No (appointed by the council)	No (appointed by the council)
... the mayor's term in office is equal to the council's	Yes	No	Yes	Yes	Yes
... the mayor can be recalled by the council	Not regulated	Respectively, the President or the Minister of the Interior can release the mayor from office	Not regulated	Not regulated (Council can hold the mayor liable)	The Government of the Republic can, based on a proposal by the Minister of the Interior
... the mayor presides over the council	No	Yes	Yes	Yes	Yes
... the mayor can at least co-define the council agenda	Yes	Yes	Not regulated	Yes	Yes
... the mayor appoints the city/rural municipality secretary	Yes	The mayor makes a proposal and the Minister of the Interior appoints	No, the council does	No, the council does	The mayor proposes candidates and the Minister of the Interior appoints

*According to the Rural Municipality Council Election Act of 1921, the mayor did not have to be a member of the council, and could be an outside candidate.

Source: Adapted from elements in Egner & Heinelt, 2008, and Heinelt & Hlepas, 2006.

⁸⁸ Act on the Elections of Rural Municipality Councils and the Organisation of Rural Municipality Councils and Governments of 1926 (*Vallavolikogude valimise ja vallavolikogude ning vallavalitsuste korraldamise seadus*).

On 18 August 1929, the Council of the Association of Municipalities of Estonia adopted the Rules of Procedure for the Councils of Rural Municipalities. The document was approved by the Minister of the Court and the Interior on 5 December 1929. The rules of procedure were based on the legislation and consisted of 95 Sections.

Some rural municipality mayors voiced demands to increase their power. For example, in 1935 one such mayor of a rural municipality proposed at the Association of Municipalities board meeting that the mayor should be directly elected, otherwise he was subordinated to the council. They also claimed that they lacked prestige in the council (Kruustee, 1935). With the Rural Municipality Act of 1937, some of the less important decisions were duly transferred from the council competency to that of the mayor. Broadly speaking, the principles of the Act were similar to those stipulated for the cities a year later – the mayor's right to suspend certain decisions by the council (Section 31 of the Act), the right to draft the agenda of the council session and chair the council meetings (Sections 32 and 33), and so on.

4.4 DISCUSSION AND CONCLUSION

The Russian Revolution of 1917 marked a turning point with a long-lasting impact for the democratisation of local government in Estonia (Olle, 2014, p. 56), because at the beginning of 1938 the majority of the legislation on city governments still comprised pre-1918 regulations and was in the Russian language.⁸⁹

Although a local government framework or special laws were drafted in 1918–1934, there was not enough political stability, will or consensus to adopt them, with the exception of legislation concerning local elections. Such legislation was probably influenced by the parliamentary election rules and by political interests. Hence, the activities of local governments were governed in part by the pre-independence legislation, and due to continuous amendments to this legislation it was difficult for local governments to follow the relevant applicable rules. The creation of a totally new local government system was excluded right from the start of independence due to the high costs of the potential change. Demonstrating the basic logic of path dependence, past decisions limit future choices, and taking another path can incur high switching costs.

The changes in 1934, and those that came afterwards, were in the direction of deconcentration (Vellner, 1935, p. 4), although the path to deconcentration had already been paved with the Constitution of 1920. A resolution by the first congress of local government representatives in 1924 stated that there had

⁸⁹ In the case of Latvia, for example, the Rural Municipality Act was adopted in 1922, the City Act in 1930, and an Act Abolishing County Governments in 1934 (Angelus, 1938, p. 9).

been a tendency to govern at the local level through the special institutions and that the powers of local government had been cut as far as possible (Eesti Maakondade Liit and Eesti Linnade Liit, 1925). The special institutions' governance remit remained in the legislation throughout the interwar period. The Constitution of 1938 stipulated that 'The organization of local administration and the development of local life are assured by the law to local self-governing institutions' and no longer contained the wording 'insofar as there is no special institution created by law'. However, the special institutions clause was added to the City Act of 1938 and Rural Municipality Act of 1937.

A positive development at the end of the 1930s was the enactment of conceptually consistent local government acts, which finally created a clear legal framework for local governments, covering all the relevant bodies, supervision, taxes, and so on, although these acts were issued as decrees of the State Elder or President-Regent due to their urgency, and were not discussed in parliament. This type of enactment makes it virtually impossible to identify the causes of the new elements introduced with the City Act, Rural Municipality Act, and County Act in 1937/38. A certain cause from 1934 until 1940, however, was the authoritarian regime, which resulted in rules that ensured more extensive state control over local governments than the former fragmented legislation. This could provide a basis for dividing the analysis into authoritarian (interwar authoritarian and 50-year-long communism period) and post-authoritarian periods, as suggested by Wittenberg (2013), although as there are more differences between the interwar authoritarian and communist periods than there are between the 1920s and the second half of the 1930s, this approach will not be applied in the current study. In addition, in the post-communist period, references are predominantly made to the end of the 1930s when it comes to using the past as a source of ideas, and not the 1920s.

State Elder Konstantin Päts gave a speech (see Klesment, 1936, p. 2) in January 1936, a month before holding a referendum asking the people for the mandate to establish a National Committee and to grant it the power to draft and adopt a new Constitution. In his speech, he stated that despite the flaws in the Constitution of 1934, it granted supremacy to the State Elder, who was able to resolve issues during 1934–1936 that would have been impossible under the Constitution of 1920. In the same speech, Päts indicated his opposition to the proportional election system, at least when it came to the parliamentary elections. Setting aside the fact that there was an authoritarian regime in 1936 (i.e. ignoring the context), it cannot be denied that the legislation of 1937/38 on local government, and especially on county government, contained many principles and constructs that could have been appropriate under democracy. Despite the fact that the City Act and Rural Municipality Act contained some fairly undemocratic provisions,⁹⁰ it was the first time that Estonia as an independent state had one legal act governing

⁹⁰ Increased powers of the Minister of the Interior over the municipalities.

most aspects of city or rural municipality. This naturally came at a price, however, in the form of reduced local democracy and increased executive powers.

During the interwar period, rural municipalities and cities were in different situations, mainly because the rural municipalities were seen as sub-units of a county even before 1918, but convergence increased over the years. For example, responsibility for the supervision of some cities fell to the county governor, and was no longer under the remit of the Minister of the Interior. Further, while rural municipalities had already collected head tax for years, the cities were granted the right to collect community tax in 1936, and the City Act of 1938 was based on the same principles as the Rural Municipality Act of 1937. Head tax serves as a good example of path dependence. Although it was acknowledged that the tax was unfair in many respects, and should not be promoted, it provided crucial revenue for rural municipalities. Replacing it with other sources of revenue would have probably required an overhaul of the whole financing system. Despite a decade of resistance, it was easier to extend it to the cities than it was to abolish it.

We can ‘differentiate between accounts of how institutions are created and those of how they are sustained’ (Bennett & Elman, 2006, pp. 260–261). The interwar period in Estonia was predominantly about sustaining inherited local government institutions, even though there was an interest in creating one’s ‘own’ institutions. Gradual institutional change was dominated by layering and displacement. On the one hand, both policymakers and local government representatives were learning from the experiences of other countries. On the other hand, there was the realisation that the pre-1918 institutions were not the most appropriate and needed to be reformed.

From the perspective of path dependence and the assumption that formal political institutions may be, but are often not path dependent (Alexander, 2001), there are at least three institutions worth highlighting: county self-government, election rules, and the legislation on local government.

First, when it came to local self-government at the county level, the much-debated county government reform was either partially or fully implemented only in connection with the adoption of the Constitutions of 1934 and 1938, despite the fact that county government was not enshrined in the Constitution of 1920. At the end of 1933, a bill on the abolishment of county self-government was submitted to parliament but, contingent event or not, the adoption of the Constitution proved detrimental in this respect, as it provided an argument for formally abolishing county-level self-government. At the same time, as the lower-level local government had not been reformed, it was not possible to simply abolish the middle level. Path dependence was reinforced by the lack of large-scale amalgamation of rural municipalities. Another contingent event occurred in 1919 when the state decided not to appoint new commissars and granted the county governments supervision over the rural municipalities. Re-establishing local governance at the county level, albeit in a modified form, once again called for a new Constitution in

1937. Hence, in the case of county government, previous decisions and the lack of changes in the other institutions made county government somewhat sticky as an institution. As the County Act of 1938 was adopted during the authoritarian regime in the absence of a parliament, it is difficult to understand why county administration was designed in the way it was. The strong executive was used at both the city/rural municipality level and the county level, and can be explained by the authoritarian regime. It is clear that Pääts supported a two-chamber parliament at the state level and even though he had started to have doubts about the idea, a visit by Finnish President Pehr Evind Svinhufvud in August 1934 breathed new life into this way of thinking because Svinhufvud had said that the weakness of new states could be attributed to the lack of a second chamber (Laaman, 2003, p. 2767). Whether the decision to establish a two-chamber parliament at the national level had any impact on the design of county governance is not known.

Second, the electoral system is an example of constant change. As electoral laws are political institutions that 'can be changed by simple legislative majority' (Alexander, 2001, p. 259), they are not very path dependent. Indeed, the electoral system in Estonia had not become entrenched, but was also influenced by practices in neighbouring countries (e.g. Finland). It is questionable whether it represented a quest for a viable system or a battle for political power at the local level (i.e. to gain as many seats in local councils as possible). At the end of the 1930s, the changes were motivated by the need to avoid the existence and establishment of political parties under the authoritarian regime, and hence the available paths for change were determined by the aim of preventing political parties and groupings from gaining a foothold.

Third, in the case of primary-level local government and special acts on local authorities, the lack of change could be seen most clearly in the formal institutions. The institutions were a legacy of the tsarist era. Many of the bills that were drafted, but not adopted, were mainly aimed at anchoring the existing institutions into a coherent legal text. One reason for this, as indicated above, was that the composition of the Cabinet changed frequently, and bills that had already been tabled were withdrawn and rewritten. There was little criticism of city and rural municipality governance after the mid-1920s, and hence there were no strong change proponents.

5 ABOLISHMENT OF LOCAL SELF-GOVERNMENT

The main aim of this chapter is, first, to examine which elements of the local government of the First Republic (i.e. the interwar republic) were abolished, especially during the first 10 years of occupation⁹¹ and, second, which administrative system was in place in the 1980s. Hence, the focus is only on the first and last years of the period, and therefore the structure of the chapter is different from that in Chapters 4 and 6. The present chapter still uses the term ‘local government’, but generally speaking this does not refer to local self-government as such, but rather to those institutions which, in the Constitution of 1940 and of 1978, were ‘local bodies of state authority’.

Zubkova (2007) states that the Sovietisation of the Baltic countries took place in two stages: during the first stage (until mid-1947) there was an attempt to avoid hard measures and to demonstrate that national specificities were being taken into consideration, whereas the end of 1947 marked a process which culminated in mass repression, collectivisation, and ‘purges’ within the union-republic’s leadership (pp. 200, 205). She also claims that the weakest link in the implementation of the Sovietisation policy were the local authorities, which she attributes to the fact that the administrative hierarchy did not function in practice and, at the republic level, did not have a good overview of what was happening in the county, let alone at the rural municipality level. The situation changed in 1947 when the establishment of the lowest-level administrative bodies was also completed *de facto* (Zubkova, 2007, p. 199).

According to Paavle (2009a),⁹² when it comes to the local level, the Sovietisation of local administration started in 1940 and ended in 1950, when counties and rural municipalities were abolished as administrative-territorial units. Paavle (2009a, p. 266) stresses that while during the 1940s the local government system in Estonia was two-tier in structure, in the rest of the Soviet Union it was single-tier. As analogies to the local administrative system in Estonia can be found in Latvia and Lithuania, and in light of the lack of equivalent studies on these two countries, Paavle hypothesises that Sovietisation in the three Baltic countries was broadly similar.

⁹¹ A discussion on whether we should talk about occupation or colonisation in the case of the Soviet invasion (see Annus, 2012) is outside the scope of the current thesis. As ‘occupation’ is more broadly used in the literature (e.g. Misiunas & Taagepera, 1993; Purs, 2012), the term is also used here.

⁹² An extensive treatment of local government Sovietisation with a focus on rural municipalities during 1940–1950 can be found in the work of Indrek Paavle (2009a), which was written within the history discipline. His main conclusion was that the local level in the 1940s did not seem to be a reflection of the higher levels. This provides yet another reason to focus on the local level.

The term Sovietisation came into use in 1917 after the October Revolution, and referred in particular to a system modelled on the Bolsheviks' governing and organisational approach (Mertelsmann, 2007). According to Mertelsmann, the term initially concerned political power, but subsequently took on a broader meaning. In the international arena, Sovietisation referred to the 'reorganisation of the daily life, economy, policy, and culture based on the Soviet Union model' and it had negative connotations (Mertelsmann, 2007, p. 16). Local variations also existed, such as the East German or Polish model of Sovietisation. Mertelsmann described the Soviet Union as a house or building which 'Stalin had established on Lenin's foundation', claiming that the main structures of the Soviet Union developed in the 1930s and remained broadly the same until its collapse (2007, p. 18).

5.1 GENERAL CONTEXT

Estonia was occupied by the Soviet Union on 17 June 1940, and the new government took office on 22 June (Vahtre, 2007, pp. 247–248). On 21 July 1940, Estonia became the Estonian Soviet Socialist Republic (Uuet, 2002, p. 77) and the new Constitution was adopted on 25 August 1940. Under the Constitution, Estonia was divided into 11 counties; four cities (Tallinn, Tartu, Narva, and Pärnu) did not belong under the counties, but were republic cities (Section 14 of the Constitution of 1940). Local councils were replaced by the Soviets of Working People's Deputies, which were state bodies (Section 52 of the Constitution). The executive committees of local soviets were formally established on 17 January 1941 (Uuet, 2002, p. 78) and the first local soviet elections after the war took place in 1948 (Puur & Uuet, 2010).

Germany's invasion in late summer 1941 suspended the introduction of the Soviet governing system until autumn 1944. After re-occupation by the Soviet Union in 1944, the border between Estonia and Russia was changed and some rural municipalities in Estonia and Latvia were "given" or "returned" to the Russian Soviet Federative Socialist Republic (Nutt, 2010, p. 77). In the case of Estonia, this represented about 5% of its pre-WWII territory (Mälksoo, 2005).⁹³

After the restoration of the Estonian SSR, the existing administrative territorial organisation was initially retained. The first substantial change came in 1945 when village soviets were created. Estonia submitted a proposal to establish 1,250 village soviets, although only 637 were eventually

⁹³ Most of Petseri county was merged with the Pihkva oblast, and the part of Petseri county that was not merged with the Russian SFSR was merged with Võru county (Decree on Merging the Rural Municipalities and Rural Municipality Districts of Petseri County of the Estonian SSR with Võru County of 1945 (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Eesti NSV Petseri maakonna valdade ja vallaosade Võru maakonnaga liitmise kohta*)).

established – an average of 2–3 per rural municipality (Uuet, 2002, p. 84; Paavle, 2009a, pp. 105–106).

5.1.1 LOCAL ADMINISTRATION IN THE SOVIET UNION

When it comes to local administration in the Soviet Union before 1940, several aspects are worth noting. First, by 1939 the local elections had become a formality with a voter participation rate of 99% (Paavle, 2009a, p. 40). Second, the local soviets had lost all of their powers due to total centralisation (Paavle, 2009a, pp. 40–41). Third, by the end of the 1930s, the term “local self-government” was no longer in use (Paavle, 2009a, p. 41), and local administration was defined in the Constitution as ‘local organs of state authority’ instead. Paavle (2009a, pp. 41–42) points out that the four main principles governing the policy towards local authorities in the second half of the 1930s were: (a) total centralisation; (b) *de jure* dual subordination of executive bodies, but *de facto* triple subordination; (c) rejection of the law (or lack of the rule of law), and (d) paternalism. The local administration system, developed by the end of the 1930s, remained broadly unchanged until the end of Soviet rule (Paavle, 2009a, p. 40).

Reshetar (1978, p. 211) has defined dual subordination as ‘subordination to the soviet of an administrative unit’s own jurisdiction and to a higher administrative body’. The executive committee was ‘responsible both to its own soviet and – more significantly – to the executive committee of the next superior soviet, which [could] annul its decisions’ (Reshetar, 1978, p. 221). Hough and Fainsod (1979, pp. 490–491) also found that dual subordination ‘reduces the leverage of the local soviets over their subordinates, for the latter can appeal to contravening instructions from ministerial – or “vertical” – supervisors’. This is something that was also mentioned during the interviews when interviewees were asked about dual subordination in Estonian local soviets.

According to Hough and Fainsod (1979, p. 480) ‘[r]ecognizing the fact that all Soviet institutions are part of a single giant bureaucracy obviously is crucial in understanding the Soviet system, and it has several important implications’. In comparison to the West there was a need for coordination ‘across a far wider range of activities’ on an extremely large territory and ‘the merging of all institutional life into the governmental sphere also means that many matters [became] political in the Soviet Union that would not be considered in the West’ (Hough & Fainsod, 1979, p. 480). Reshetar highlights that the ‘Dependence of local governmental bodies [was] especially evident in taxation and finance’ in the USSR. According to him, ‘the finance departments of local soviets [collected] all taxes, revenue policy [was] highly centralized because only the central government [was] empowered to levy taxes; local soviets [enjoyed] no independent taxing power’ (Reshetar, 1978, p. 222).

In the bigger republics, the ‘territorial subdivision below the level of the union republic’ (Hough & Fainsod, 1979, p. 483) was the oblast. In small

republics, the oblast did not usually exist. Below the oblast (or the union republic) were raions, which had 'no jurisdiction over the larger or medium-sized cities and towns' (Hough & Fainsod, 1979, pp. 483–484). According to Hough and Fainsod (1979, p. 484), there was no clear 'line at which a town becomes large enough to be administratively independent of the rural raion'. In addition, there were 'urban settlements' (*poselok gorodskogo tipa*), but Hough and Fainsod again say that it was not clear why certain settlements were called urban settlements and others cities (1979, p. 484). The lowest rural administrative unit was the village soviet.

The 'representative' body was respectively the city soviet, raion soviet, or village soviet, whose deputies were elected in uncontested elections,⁹⁴ and the top executive body was the executive committee. Hough and Fainsod (1979, p. 486) claim that the 'local soviet [seemed] to have the potential for greater liveliness and impact than its national counterpart' in the 1970s, mainly due to higher frequency of sessions at the lower levels than at the higher ones.

While little attention was paid to the parties in the previous chapter, local administration during the Soviet period cannot really be studied without considering the role of the party organs. The party played a 'starring role' in the local soviet and was 'the critical element in subordinating local government to central control' (Young, 1997, p. 96). One 'responsibility of the local party organs in relation to the administrative organs [was] to ensure that they carry out the decisions of the central party organs' (Hough & Fainsod, 1979, p. 492). They had special powers, for example, when it came to personnel selection through the system of party *nomenklatura*.⁹⁵ '[T]he most important policy decisions within the locality [were] made within the bureau of the local party organs rather than within the executive committee of the soviet' (Hough & Fainsod, 1979, p. 501). The first secretary, the chairman of the executive committee, and the second secretary constituted 'a collective Big Three' (Hough & Fainsod, 1979, p. 504), although the first secretary was the top political figure in the locality instead of the chairman.

In the Stalin era, the 'political formulae and institutions' of Eastern Europe within the Soviet Bloc 'closely followed the Soviet model, although there were apparent differences in the extent to which this model was accepted, tolerated, or rejected by the populations of different states' (Janos, 1996, p. 13). On the other hand, the post-Stalin period introduced greater diversity. Moreover, the local soviets were not regulated in exactly the same way throughout the whole Soviet Union. One example is that while in 1973 'a new system of drawing up

⁹⁴ 'Elections were one of the primary mechanisms through which the Soviet government distributed political rewards to loyal elites as well as checked their performance' (Jones Luong, 2002, pp. 5–6).

⁹⁵ According to Thelen, the term *nomenklatura* refers to 'a list of key positions, the appointments to which are directly or indirectly controlled by the secretariats of the CRSU at the various levels of the political and territorial-administrative structure of the Soviet system' (cited in Ross, 1987, pp. 33–34). According to a broader definition, *nomenklatura* can also refer to all those persons who filled the positions (Tannberg, 2007, p. 256).

the [local] budget' was introduced, it was operative in 1974 in 'all the Republics except Estonia and Lithuania' (Ross, 1987, p. 93). These two countries continued with the old system.

5.1.2 SHORT PERIOD OF GERMAN OCCUPATION

In the context of the current study, the period of German occupation has little relevance in terms of local government development in Estonia in the 1990s. The main reason for this claim is that the Germans did not introduce any lasting fundamental changes into the local government system, and their rule in Estonia only lasted from September 1941 until October 1944. Notwithstanding the brevity, in his PhD thesis Maripuu (2012a) provides a historical account of the administrative arrangement during the German occupation in Estonia.

Although the 11 counties remained, the state was divided into seven regions (Järva Teataja, 1941b). During this period, the cities that were not subordinated to the county level comprised Tallinn, Tartu, Narva, and Pärnu,⁹⁶ namely the same ones as under the Soviet rule in 1940/41.

At the beginning of German occupation, Estonians in some municipalities tried to organise council meetings, but soon thereafter the municipality usually received a notification from the county government to the effect that convoking a local council was forbidden (Maripuu, 2012b). These attempts to organise local council meetings under German rule, even when the councils were dissolved, demonstrates path dependence from the 1930s. 'Path dependency is often said to make the strongest claim in respect of how policies are implemented' (Gains, John, & Stoker, 2005, p. 43), implying that even if the legal framework is drastically altered, the change in practices can be influenced by path dependence and therefore be restricted. A civil government was established under German rule on 5 December 1941. To this end, the temporary army governance was replaced with a permanent occupying power (Vahtre, 2007, p. 257). In December 1941, a statement was issued to the effect that the legislation in force on 21 June 1940 was once again valid, as long as it did not contradict the new German arrangements.⁹⁷ It was not until May 1942 that it was formally stated that the County Act, City Act, and Rural Municipality Act were in force according to the wording of 21 June 1940,⁹⁸ and some amending provisions to these legal acts were added at the same time. The councils at the local and county level were not formed again, but all of the council's tasks were allocated to the county governors and city/rural

⁹⁶ First Implementing Regulation of Regulation on Establishment of Community Self-Government of 1942 (*Kogukonnaomavalitsuse sisseseadmise määruse esimene teostamismäärus*).

⁹⁷ Regulation on Law Applicable in Estonia of 1941 (*Eestis kehtiva õiguse määrus*).

⁹⁸ First Implementing Regulation of Regulation on Establishment of Community Self-Government of 1942 (*Kogukonnaomavalitsuse sisseseadmise määruse esimene teostamismäärus*).

municipality mayors, respectively. It is worth noting that the number of permitted advisers was high,⁹⁹ in line with the German governance model.

In April 1942, the powers of rural municipality mayors were extended with the aim of increasing the agricultural production to feed the troops and the population at large.¹⁰⁰ In March 1943, the Director of the Interior (i.e. the Minister of the Interior) was entrusted with determining in which cities and rural municipalities the post of mayor would be an honorary post.¹⁰¹ In principle, during the German occupation, the local authorities were executive authorities of the occupying powers, without a council of representatives. Despite the fact that the local authorities had a predominantly executive function, local officials were usually local people and therefore the local residents saw them as carriers of continuity to the period of independence, especially since there had been a short period of Soviet occupation between independence and the German occupation period (Maripuu, 2012a, pp. 267–268).

5.2 THE SHARP END OF THE OLD SYSTEM

This section provides a brief overview of three of the aspects that could carry continuity – the people, an administrative-territorial organisation, and a local government institutional organisation. The people aspect will be dealt with both in terms of staff changes as well as the fate of individuals holding posts under the Soviet and German occupation. In 1942, a county governor of Lääne county, K. R. Ruus (1942), wrote that a year of Bolshevik rule had ‘cut deep wounds’ into the county and rural municipalities, namely the deportation and arrest of many well-known local self-government figures had left unfilled gaps. Similarly, Zubkova (2007) regards the personnel policy as the main mechanism for Baltic Sovietisation. She has also highlighted that in this context there were conflicts between three groups of people (2007, p. 193): (1) between the indigenes and the Russian(-speaking) population; (2) between the “old” and “new” natives (i.e. those living in the country before 1940 and those who came from other republics); and (3) in the leadership between those repressed under the old regime (i.e. political prisoners) and the new leaders, who had been living outside the country during tough times.

⁹⁹ The maximum number of advisers depended on the number of inhabitants – it was 16 in counties and cities, and 10 in rural municipalities. This was an honorary post with a term of six years. Mayors and county governors were required to ask advisers for their opinion on issues that used to be under the competence of the local council.

¹⁰⁰ Regulation on Extending the Powers of Rural Municipality Mayors (1942) (*Vallavanemate võimupiiride laiendamise määrus*).

¹⁰¹ Regulation on Filling the Posts of City and Rural Municipality Mayors and Their Aides as Honorary Posts of 1943 (*Linnapeade, vallavanemate ja nende abide ametikohtade auametiliselt täitmise määrus*).

5.2.1 PEOPLE

The first period of Soviet rule

The new Government of Estonia, often dubbed a “puppet government”, was formed on 21 June 1940. In its declaration, the government stated that they would ‘initiate a local government reform, to ensure people’s effective participation in these’ (Lääne Elu, 1940). On 25 July 1940 an act was passed on the dissolution of city, rural municipality, and county councils.¹⁰² Their tasks were transferred to the respective governments. The dismissal of the staff affected both local government levels: the county level and the city / rural municipality level.

Counties. The leaders of the county government were dismissed as of 1 and 8 July 1940, mainly in accordance with the President’s directives (Truuväli, 1966, pp. 393–394). Under these directives, new county governors were also appointed. Truuväli claims that the new county governors were loyal to the Soviet rule, as by January 1941 new county governors had only been assigned in five counties (1966, p. 396). After the establishment of the county executive committees, five county governors became chairmen of the executive committee (a post similar to the county governor under the old system), and three county governors were assigned various posts in the executive committee (Truuväli, 1966, p. 396).

Cities. The city governments were dismantled in large part during the last week of July and the first week of August 1940, by divesting the mayors and aldermen of their office (Truuväli, 1966, p. 399). New city governments were established after the councils had been abolished by law in July. Truuväli claims that the fact that 27 mayors out of 32 were workers or leaders of the workers’ organisations was a clear sign of change in the ‘Estonian socio-political situation’ and in the balance of power between the working and capitalist classes (1966, p. 401).

Rural municipalities. When it comes to the rural municipalities, there were no major changes in the staff of the executive body in June–July 1940 (Truuväli, 1966, p. 405). In accordance with the decree of 25 July 1940,¹⁰³ the councils had been dissolved and the next step was to dissolve the executive bodies. On 31 July 1940 the Rural Municipality Act was amended by giving the Minister of the Interior powers to dismiss the mayors in some or all of the rural municipalities. This was followed by a decision by the Minister of the Interior on 31 July 1940 to dismiss all of the rural municipality mayors. On 1 August, the Minister appointed the majority of the new mayors. The new rural municipality governments were appointed upon a proposal by the county governments, although the Minister of the Interior rejected some of the

¹⁰² Act on Discontinuation of Activities of County, City and Rural Municipality Councils of 1940 (*Maa-, linna- ja vallavolikogude tegevuse lõpetamise seadus*).

¹⁰³ Act Specifying the Rural Municipality Act (1940) (*Vallaseaduse täiendamise seadus*).

proposed appointments. Of the 246 appointed mayors, only 17 had been the mayor of a rural municipality during the 'bourgeois era' (Truuväli, 1966, pp. 407–409), and hence only about 7% of the mayors remained the same.¹⁰⁴ In Estonia in 1941, there was only one chairman of an executive committee of a rural municipality who had been the mayor of a rural municipality before 1940 (Paavle, 2009a, p. 60).

In order to justify giving, on 31 July, the Minister of the Interior the power to dismiss the mayors of rural municipalities, reference was made to the fact that, as the councils had been dissolved, it was not justified to allow those rural municipality mayors who had been appointed by the dismissed councils to remain in office (see Postimees, 1940). By the beginning of September, new staff had been appointed in all rural municipalities, with some small adjustments taking place until the end of the year, although the previous mayors remained in office in some locations due to a lack of suitable candidates (Paavle, 2009a, p. 50).

Paavle (2009a, p. 43) assumes that one reason for replacing the mayors in the rural municipalities in summer 1940 was the need to ensure the effective execution of the land reform. The reform entailed dispossessing those with private land that exceeded a certain threshold and redistributing it to those without land. Its implementation called for assistance from the rural municipality authorities, but the majority of the previous rural municipality mayors were farm owners themselves (Paavle, 2009a, pp. 43–44).

A comprehensive overview of the staff changes in 1940–1941 has been provided by Erik-Juhan Truuväli (1966) in his candidate dissertation, as well as by Paavle (2009a, pp. 43–50). Truuväli concludes that the destruction of the local governments was manifested in four ways in 1940/41. First, as the county governments were subordinated to the Ministry of the Interior under the legislation of the late 1930s, it was easy to replace key persons (i.e. county governors and county aldermen) at the county level as soon as the communists had gained power at the national level. Even though the former personnel remained in cities and rural municipalities, they had to implement new orders. Second, between 25 July and 25 August 1940, the local councils were disbanded and the top executives in the cities and rural municipalities were dismissed. Despite the fact that the local government structure remained, the bodies fulfilled the functions of the new rulers. Third, between 25 August 1940 and 1 January 1941 continued changes in the local personnel and new departments, foreseen in the Constitution, were created. Fourth, as the last stage in the dismantling of the old local government system, in January/February 1941 executive committees of local soviets were created (Truuväli, 1966, pp. 444–446).

¹⁰⁴ Paavle refers to a similar percentage (below 8%) (2009a, p. 50).

Short period of German occupation

As soon as some territories were free of Russian troops in August 1941, the city and rural municipality governments resumed their duties there and, where possible, reinstated the pre-21 June 1940 staff (Järva Teataja, 1941a). Again, the work of local authorities was resumed before the government at the national level was established. Maripuu (2012b) has emphasised that in several municipalities the work of the local authorities was resumed with the help or on the initiative of *Omakaitse* (the home guard), who in some cases probably acted under the guidance of the Germans. The Germans appointed the county governors and city mayors, some of whom had held this post at the end of the 1930s, too. In Viljandi county, out of 21 appointed mayors of rural municipalities, 11 had been in the same position in 1940 (Paavle, 2009a, p. 90). Hence, the situation marked a partial return to the interwar practices.

Second period of Soviet rule

Preparing local staff from Estonia to take up office at the local level, after Estonia was re-occupied by the Soviet power, started even during the German occupation in different areas of the Soviet Union, including the Leningrad oblast (Paavle, 2009a, pp. 92–93), and the trainees were, for the most part, women (Paavle, 2009c, p. 19). Local executive committees were established in parallel with the movement of Red Army troops in 1944 (Paavle, 2009a, pp. 94–95). When possible, those people who had worked in the executive committees in 1940–41 were employed, but locals who had been working for the rural municipality government under German rule were also initially deemed suitable for work in the new committee (Paavle, 2009a). In autumn 1944, there was an apparent lack of qualified workers, especially in rural municipalities (Paavle, 2009a, p. 99).

In all three Baltic countries, it proved difficult to increase the number of Communist Party members. For example, on 1 January 1945 the number of party members and member candidates was as follows: 3,536 in Lithuania, 3,692 in Latvia, and 2,409 in Estonia, while less than half were indigenes (e.g. only 961 in Estonia) (Zubkova, 2007, p. 190). According to Zubkova, the republic-level authorities in the Baltic states requested the All-Union Communist (Bolshevik) Party to send Lithuanians, Latvians, and Estonians (communists) who were living in the old republics of the USSR to carry out work for the party and work to benefit the economy in their respective countries. To this end, some were duly dispatched in 1945. The possibility of bottom-up initiatives was avoided because, according to Liivik (2014, pp. 166, 177), by end of 1951 only two local Estonians were in the Government of the Republic (i.e. the rest were mainly Estonians from the Soviet Union), although up to the mid-1940s the majority of government members had been local Estonians.

When observing the rural municipality level, in 1944 there were only three Russians in 62 party organisations (based on available data), while the rest were Estonians, and therefore many of them did not speak Russian (Feest, 2007, pp. 217–218). Hence, Feest stresses that the situation was challenging for higher-level officials who were non-Estonians or Russian Estonians, and who did not speak Estonian.

Repression under different powers

Deportation became one of the main mechanisms of Sovietisation in the Baltic countries in 1949–1951, and it was also used to speed up the establishment of collective farms (*kolhoosid*). But even mass deportations did not achieve the goal of making the Baltic countries a loyal region (Zubkova, 2007, p. 203). Between 1940 and 1952, over 203,000 people were deported from the Baltic countries to Siberia (Tannberg, 2005, p. 274). A considerable number of (former) local government officials were also ‘eliminated’ by means of deportations and arrests, and in this way continuity of competence and knowledge was hampered.

In 1940–1941, of the last 11 incumbent county governors, five were arrested, along with several city mayors. In the case of rural municipality mayors, at least 38 out of 248 were arrested (Paavle, 2006a, pp. 396–397), namely almost one-sixth of the pre-1940 incumbents (Paavle, 2009a, p. 90). Of these 38, 34 perished in 1941–1942 and four returned to Estonia years later (Paavle, 2006a, p. 397). As for rural municipality secretaries, 48 were repressed in 1940–1941, which represented about 19.4% of the total number of the secretaries of 1940. Thirty-five from among these 48 were either executed, or died in captivity (Paavle, 2008, p. 266).

During the German occupation, some of the chairmen of the local executive committees were killed (Paavle, 2009a, p. 90), and two former rural municipality mayors were executed for communist activities (Paavle, 2006a, p. 397).

In 1944–1945, the Soviet state security institutions imprisoned 73 former rural municipality mayors, increasing the number of imprisoned rural municipality mayors during the Soviet occupation to 111 (Paavle, 2006a, p. 397). Former mayors were mainly convicted of ‘betrayal of the homeland’¹⁰⁵ (Paavle, 2009b, p. 400). During the German occupation, at least 17 men¹⁰⁶ held the post of county governor, and of these at least 11 escaped to the West, while at least three were repressed in 1944 (Paavle, 2009b, p. 398). Paavle studied 12 cities and was able to identify 20 mayors during the German occupation, of whom at least 15 went into exile, two were sentenced to serve time in a correctional labour camp, and one became an assassin (agent)

¹⁰⁵ Further details on specific individuals can be found in Paavle, 2009b, for example.

¹⁰⁶ This number also reflects the replacements.

(Paavle, 2009b, pp. 399–400). Information on the remaining two mayors is limited.

The number of imprisoned deputy rural municipality mayors was also remarkable – 28 were incarcerated in 1940–1941, and 93 in 1944–1955. In addition, four deputy mayors were executed during the German occupation (Paavle, 2009b, p. 397).

According to Paavle (2006a, p. 399), the execution or imprisonment ‘was only a part of the repressions. Many who were not physically destroyed were nevertheless forced to abandon their occupation and established way of life’. Paavle also explains the difference in the number of victims under the Soviet Union and under Nazi Germany in respect of their different aims. While the Soviet Union aimed to destroy the so-called “bourgeois state” as such, ‘the repressions of the occupying powers of Nazi Germany were directed against political opponents and communists and also derived from the objectives of their racial policy’ (Paavle, 2006a, p. 399). In his report to Stalin in April 1943, Lavrentiy Beria ‘listed seven categories of persons who should be arrested in the process of cleaning the rear area of enemy elements’ including the ‘heads of *oblasts* (districts), cities, and the administrative organs of regions’ (Paavle, 2006a, p. 392). In sum, the majority of local government leaders of the independence period were eliminated, which made it easier to implement new practices, as the legacy practices of the past were weakened through the elimination of these persons.

5.2.2 ABOLISHMENT OF COUNTIES AND RURAL MUNICIPALITIES

The biggest changes in the administrative and territorial organisation took place in the rural units, in that the counties were renamed raions, the number of raions was increased, and the rural municipalities were replaced with small village soviets.

From counties to raions

The Soviet Union model encompassed raions, and therefore it was expected that they would also be established in Estonia sooner or later. Truuväli considered the county level to be the strongest link in the “bourgeoisie self-government” before the events of 1940 (1966, p. 399). Given the structure of the county governments, this is probably true. In the Constitution of 1940, they were still counties and not raions, but after the constitutional amendment of 1950, it was stated in Section 52 that the local bodies of state authority in raions, cities, towns, and villages were the soviets of working people’s deputies. Hence, the raions did not materialise in Estonia until 1950.

In February 1949 two decrees were adopted whereby two additional counties were created – Jõgeva and Jõhvi. The establishment of Jõgeva county was justified in the decree by virtue of ‘the size of Tartu county and the large

number of subordinated city, rural municipality, and village soviets, which makes the county's economic and political management more difficult'.¹⁰⁷ Jõhvi county, on the other hand, was created in the interests of the development of the oil shale basin.¹⁰⁸

Raions were not established in Estonia until 1950 because in 1946 Nikolai Karotamm, the first secretary of the Central Committee of the Communist Party of Estonia, found that the 'personnel situation was not favourable for the establishment of raions' (Paavle, 2009a, p. 141). The raions were created after the comprehensive collectivisation of the agricultural sector. Paavle claims that this was a clear indicator as to why the administrative reform was not implemented earlier – a mechanism was needed to control the inhabitants, and in the Soviet Union the collective farm (*kolhoos*) was the main tool for this (Paavle, 2009a, p. 141). Rural municipalities and counties were abolished as of 26 September 1950, and 39 raions were created in their place. These were directly subordinated to the state level and comprised village soviets, rural towns, and cities subordinated to the raion level. The legal basis for this was Section 19(b) of the Constitution.

Three oblasts were created in May 1952, but these were abolished a year later, after Stalin's death. As 10 counties had been replaced with 39 raions, it provided a rationale for dividing the republic into oblasts (Misiunas & Taagepera, 1993, p. 77). Although the oblasts only existed for a year, they have been etched in people's memory and even half a century later the provision of state services based on four regions is seen by some as the implementation of Soviet Union ideas.¹⁰⁹

Developments in Latvia and Lithuania were quite similar to those in Estonia. Before 1940, Latvia had 19 counties and 516 rural municipalities, while Lithuania had 23 counties and 261 rural municipalities (Misiunas & Taagepera, 1993, p. 363). The number of counties was increased in all three countries in 1945–1949, before the raions were established in 1950. Oblasts were introduced in Lithuania in 1950, but not until 1952 in Latvia, as in Estonia; in 1953, the oblasts were abolished in all three Baltic countries (Misiunas & Taagepera, 1993, p. 79).

Amalgamation of the raions started in 1957, with the biggest changes taking place in 1959 when 13 raions out of 37 were abolished (Uuet, 2002, p. 177). In 1965, the number of raions was reduced to 15. In that context, it is noteworthy that while in 1950 there were on average about 25–27 deputies in the raion soviets, by 1980 that number had increased to 104 (Truuväli, 1986b, p. 145).

¹⁰⁷ Decree on the Establishment of Jõgeva County of 1949 (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Jõgevamaa moodustamine kohta*).

¹⁰⁸ Decree on the Establishment of Jõhvi County and Merging the City of Tapa and some Rural Municipalities and Village Soviets with Viru County of 1949 (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Jõhvimaa moodustamise ja Tapa linna ning mõnede valdade ja külanõukogude ühendamise kohta Virumaaga*).

¹⁰⁹ See, for example, Vahter & Ideon, 2003.

Table 5.1 *Counties/raions, rural municipalities/village soviets, and towns, 1939–1986*

	1939	1945	1950	1952	1955	1965	1986
Oblasts	-	-	-	3 oblasts	-	-	-
Counties / raions	11 counties	10 counties	39 raions	39 raions	39 raions	15 raions	15 raions
Rural municipalities	248	236	-	-	-	-	-
Village soviets	-	-	641	641	320	238	189
Towns (alev)	-	13	22	22	28	22	24

Source: Table compiled based on data presented in Uuet, 2002.

Establishment of village soviets and abolishment of rural municipalities

At the end of 1944, the issue of village soviets appeared on the agenda (Paavle, 2009a, p. 105), and in May 1945 the Presidium of the Supreme Council of the ESSR adopted a formal decision on the establishment of village soviets in Estonia.¹¹⁰ On average, 2.5 village soviets were established per rural municipality. A village soviet was both an administrative unit and a governmental organisation (Paavle, 2009c, p. 24). Paavle sees the establishment of village soviets as a means of enhancing control over the local population (i.e. ‘theoretically the power was brought closer to the people, but at the same time the traditional ties within the rural municipality community were severed’) (Paavle, 2009a, p. 106). According to the decree on the establishment of village soviets of working people’s deputies, the village soviets were subordinated to the rural municipality soviets and the former were established to bring the Soviet power closer to the working people and to organise the latter more effectively for the purposes of ‘economic and cultural reconstruction’ in rural areas. Hence, one of the first tasks of the village soviets in 1945 was to compile lists of village residents (Postimees, 1945).

Due to the merging of farms, their borders did not overlap with the borders of the village soviets, and therefore a decree¹¹¹ was issued in 1954 whereby the number of village soviets was reduced from 641 to 320. The next substantial change in the number of village soviets took place in 1960 when 64 were abolished (Uuet, 2002, p. 179).

The abolishment of the rural municipalities was also dependent on collectivisation. According to Paavle (2009a, p. 141), the rural municipality provided an alternative control mechanism until collectivisation was

¹¹⁰ Decree on the Establishment of Village Soviets of People’s Deputies in the Estonian SSR of 1945 (*ENSV Ülemnõukogu Presiidiumi seadlus küla töörahva saadikute nõukogude loomise kohta Eesti Nõukogude Sotsialistlikus Vabariigis*).

¹¹¹ Decree on Merging Village Soviets of the Estonian SSR of 1954 (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Eesti NSV külanõukogude ühendamisest*).

completed, and a new mechanism for controlling the population was created in Estonia – collective farms. ‘The abolishment of the rural municipalities broke traditional administrative links in substance and, with this, the administrative Sovietisation of the rural area was completed’ (Paavle, 2009a, p. 143).

Due to the administrative-territorial changes, the number of local soviets decreased by 71.6% in 1948–1982, from 940 to 267 (Truuväli, 1986b, p. 138). The decrease can largely be explained by the replacement of ‘the three tier local soviets system (county – rural municipality – village) with a two tier one (raion – village)’ (Truuväli, 1986b, p. 139).

5.2.3 ESTABLISHMENT OF LOCAL SOVIETS

The establishment of local soviets was a gradual process, which started in practice with the executive committees.

Councils replaced by the soviets of working people’s deputies

Local soviets started to develop in Russia as early as 1905 as temporary organisations in the context of the revolution, and subsequently became more formalised in 1917 (Antal, 2010, pp. 135–136). Under Article 94 of the Constitution of the USSR of 1935, which was also in force in the 1940s, ‘The organs of state authority in territories, regions, autonomous regions, areas, districts, cities and rural localities (stations, villages, hamlets, kishlaks, auls) are the Soviets of Working People’s Deputies’. The role of the soviets was not to represent the will of the local people, but more to transmit the orders of the party to the people. Hence, these have been referred to as “transmission belts” (see Laaman, 1991, p. 13; Paavle, 2009a, p. 110). The real power resided in the Communist Party.

Local councils were disbanded in Estonia with the decree of 25 July 1940¹¹² on the grounds that as all power in the ESSR belonged, according to the Declaration of 21 July 1940, to the people and the people exercised state power through the soviets of working people’s deputies, the local councils’ activities would not be in line with the declaration (Järva Teataja, 1940). At the same time, the new system was not created in haste. In October 1940, when it was still unclear when the soviets of working people’s deputies would be established in Estonia, the supervisory arrangement of the county, city, and rural municipality governments was modified until the soviets of working people’s deputies and their executive committees were effectively

¹¹² Act on Discontinuation of Activities of County, City and Rural Municipality Councils of 1940 (*Maa-, linna- ja vallavolikogude tegevuse lõpetamise seadus*).

established.¹¹³ The supervisory arrangement mainly stipulated which areas would fall under which central-level authority's jurisdiction. In December 1940, Andrey Andreyev, Chairman of the Soviet of the Union, criticised the slow Sovietisation in Estonia (Paavle, 2009a, p. 57). The executive committees of counties and certain cities were formed at the end of December 1940 (Paavle, 2009a, pp. 57–58).

On 26 August 1946, a regulation was issued on improving the work of the local soviet bodies (*Eesti NSV Ministrite Nõukogu*, 1961). In the regulation, the Council of Ministers of the Estonian SSR concluded that there were deficiencies in the work of several local soviet bodies, and notable deficiencies particularly in the work of the village soviets and executive committees of the rural municipalities. The local bodies were expected to become organisations of the masses, but the Council of Ministers found that these bodies did not involve people in active soviet work and put the blame for this on the county-level officials. The regulation included 15 proposals/orders, some directly related to the working arrangement (e.g. executive committees of the rural municipalities and cities, subordinated to the county, had to meet four times per month, and village soviets had to hold meetings at least twice a month). An additional aim was to have one village deputy per ten farmsteads by September 1946.

After the end of German occupation and the re-occupation by the Soviet Union, the first local elections were held on 18 January 1948. With these elections, the structure of the local soviets was aligned with the requirements of the Constitution (Truuväli, 1986b, p. 94). The first local elections were more complicated and complex than others held during the Soviet period, because village soviets had been established in 1945, and the residents of the rural areas had to elect the representatives to the soviets at three levels: county, rural municipality, and village (Puur & Uuet, 2010, p. 62). After 1948, the local elections took place every second year. At the local elections of 1948, the turnout was 99.19%. A total of 14,565 deputies were elected (only 8 candidates were not elected¹¹⁴), 33% of whom were female and 77% of whom did not belong to the party (Paavle, 2009a, p. 118; Truuväli, 1986b, p. 109). According to Paavle (2009a, p. 118), 'the role of the soviets remained marginal. The elections and soviets were needed only to bring the governing structures formally in line with what was described in the Constitution'. 1948 was also the year of the first local soviet elections for Latvia and Lithuania, while in Western Ukraine and Western Belorussia, for example, these elections took place in December 1940 (Ant, 1994, p. 46). Ant (1994, p. 47) believes that local elections could also have taken place in Estonia after the deportation of 1941,

¹¹³ Decree on Supervisory Regime of Counties, Cities and Rural Municipalities of 1940 (*Eesti NSV Rahvakomissariide Nõukogu määrus maakondade, linnade ja valdade järelevõlvekorra kohta*).

¹¹⁴ These eight persons did not get elected because they did not gain the required share of the votes. Candidates numbered 14,573 in total, the same as the number of deputies to be elected (Truuväli, 1986b, pp. 96, 109).

if the war had not started, because Moscow would not have had any specific reason to be worried about the local election results. Truuväli (1986b) has pointed out that by 1986 there was some published data on the elections of 1948, but no research literature as such. The (artificial) participation rate of 99.19% is a noticeable difference compared to the previous local elections in October 1939, where the participation rate in Tallinn, for instance, was as low as 33.3%, although in some municipalities the rate was as high as 90% (Päevaleht, 1939). While it used to be commonplace for local people to be elected to local representative bodies, in the USSR leaders of the Soviet Union could likewise be elected to these bodies. For example, Joseph Stalin, Andrey Zhdanov, and Vjacheslav Molotov were elected to the Tallinn city soviet. One of the tools used to ensure the election of candidates involved the party asking members of the party committee to obtain a certificate to the effect that they were on a business trip and therefore had the right to cast their vote in another municipality (Estonian National Museum, 2005). This essentially allowed them to cast their vote for a candidate whose success was uncertain.

In 1959, the total number of local deputies (including those at the raion level) increased from 9,621 to 11,731 (Truuväli, 1986b, pp. 139–141). On average, there were 15–16 deputies per soviet in 1948 (44–45 in cities, and 10 in village soviets), but by 1980 this figure had increased to 40–41 (104 raions, 208 republic subordinated cities, 35 towns, and 28–29 village soviets) (Truuväli, 1986b, p. 142), making local soviets at least *de jure* organisations of the masses.

Executive committees

The executive committees were the executive bodies of the local soviets and, somewhat similarly to previous local-level governments, formally elected by the representative body (i.e. the soviet). The executive committees were established in Estonia before the soviets of deputies. On 17 January 1941, decrees were issued on the establishment of the local executive committees in counties and cities, and in cities subordinated to the county level and rural municipalities. Names of the members of the executive committees of the counties and the four cities were published in the same decree. Therefore, in practice, the appointments involved consulting the party. Truuväli (1966, p. 424) considers the establishment of the executive committees to herald the completion of the establishment of the local state authorities and the end of the old self-government system. Under the decrees of 17 January 1941, the county executive committees had 6–9 members and 7–9 members in the executive committees of the four biggest cities: the chairman, deputy chairman, secretary and members. Some of the members were the heads of certain departments (e.g. education, healthcare, trade, social security, or finance). In rural municipalities and small cities, the executive committee was composed of 3 members (the chairman, deputy chairman, and a secretary), and of 5 members in the cities of Rakvere, Viljandi and Valga.

‘A large portion of the problems derived from the fact that the responsibilities of the executive committees were not defined at all. There was no regulation stipulating the tasks, jurisdiction and area of responsibility of the executive committees and their members’ (Paavle, 2006b, p. 253). Therefore the main legal reference documents were the Constitution and the decrees of 17 January 1941. A person who headed the organisation department of a raion executive committee at the beginning of the 1950s has described (Estonian National Museum, 2005)¹¹⁵ how she had to participate in the meetings of party sub-organisations, where there were few discussions as such, but where the meeting minutes had to be drafted. She also gave an example of how a party organisation of a transport undertaking in a raion had to adopt a decision on the condemnation of an African country’s activity that was in violation of human rights.

According to Paavle (2009c, pp. 19–20), a typical way to form rural municipal executive committees in 1944 was that ‘a responsible organiser (member of an operative group who could have been previously appointed as the executive committee chairman or partorg for that same rural municipality, but could also have been passing through) was sent to the rural municipality, and he appointed the staff of the executive committee or only the chairman on the spot’. The appointed staff of the executive committee or the chairman had been pre-approved at the county level. In the event that only the chairman was appointed, he/she had to find the members himself/herself, and the county approved the staff afterwards (Paavle, 2009c, p. 20).

In accordance with the decrees of 18 January 1945,¹¹⁶ the size of the executive committees was increased. In the case of cities subordinated to the county level and rural municipalities, the maximum number of executive committee members was 9, and for counties and cities subordinated to the republic level this number totalled 11. Considering the extent of the tasks of the rural municipalities’ executive committees, the staff resources were deemed to be inadequate. In August 1945, the first secretary of the Central Committee of the Communist Party of Estonia, Nikolai Karotamm, asked Moscow’s permission to ‘organise land departments in the rural municipal executive committees, which would consist of two people’ (Paavle, 2009c, p. 22). The request was repeated in September 1945 with an additional request for the education departments. The Central Committee granted permission to form agricultural departments, but in the case of the education departments permission was granted instead to ‘enlarge the staffs of county education department school inspectors’ (Paavle, 2009c, p. 22). The staff shortage was to be resolved with the inclusion of a ‘core of activists’ (i.e. unpaid manpower), which was common in the USSR (Paavle, 2009c, pp. 22–23). As there was a

¹¹⁵ Reply No 86.

¹¹⁶ Decree on Numerical Composition of Executive Committees of Cities and Rural Municipalities Subordinated to the County Level of 1945 (*Eesti NSV Ülemnõukogu Presiidiumi seadlus maakondliku alluvusega linnade ja valdade täitevkomiteede arvulise koosseisu kohta*).

lack of such activists in Estonia, this contingent was formed 'semi-forcibly' through the establishment of the standing committees and the position of village deputy (Paavle, 2009c, p. 23).

The standing committees' statute was approved in January 1945. It was common for these committees to exist only on paper and not to become functional due to the lack of a clear objective, and as the local level had no decision-making powers, nobody sought their advice (Paavle, 2009c, p. 24). At the end of 1945, it was foreseen that for every executive committee there should be 5 standing committees respectively in the case of village soviets, 9 in rural municipalities, and 10 in cities and raions. For example, in cities and raions a standing committee was envisaged that would foster individual and collective horticulture in addition to the traditional commissions such as culture and finance. In the Annex to the regulation on the enhancement of village soviets,¹¹⁷ the statute of the deputies¹¹⁸ of village soviets (*külavolinik*) was also set out. It was foreseen that the deputy had to be a local resident and that his territory/jurisdiction would consist of ten households. The deputy's main tasks included transferring the information from the village soviet to the residents, organising the fulfilment of the village soviet's orders, and overseeing the implementation of these orders. To some extent, these tasks were similar to those of the village elder during the period of Estonian independence. For this reason, the village deputies were initially called village elders in some places (Paavle, 2009a, p. 116). The deputies were not paid but, according to Paavle, the attractiveness of the post lay in the fact that they were exempt from labour and transport conscription. The real aim of appointing village deputies might therefore have been to gather and pass on information and to function as talebearers (Paavle, 2009a, p. 117).

In 1948, when the first local elections under Soviet rule took place, a total of 2,539 deputies were elected to the executive committees of the village soviets. As there were 640 executive committee members in addition to chairmen, deputy chairmen and secretaries in village soviets, the executive committees consisted of three to four members on average (Truuväli, 1986b, p. 142).

The appointment mechanism was related to the *nomenklatura*. In the case of the executive committees of the rural municipalities, both the party and the executive committee of a county were involved (Paavle, 2009a, p. 151). 'The Communist Party ... provided the lifeblood of the Soviet regime in the form of cadres or key personnel that operate the political system' (Reshetar, 1978, p. 95). The executive committee initiated the process and the party made the final decision (first the party's county committee and then the central committee). However, this rule was often ignored and the central committee was not always informed about the personnel changes (see Paavle, 2009a, p. 152). The rural

¹¹⁷ Statute of the Deputies of Village Soviets of 1945 (*Külanõukogude volinike põhimäärus*).

¹¹⁸ 'Village deputy' may not be the correct term for *külavolinik*, as the person was not elected, but appointed. On the other hand, Koll (2013, p. 209), for example, uses this term.

municipality party committees and their *nomenklatura* were only used in 1949–1950. In May 1950, the *nomenklatura* of the rural municipality included 15,047 positions (Paavle, 2009a, pp. 152–153).

Some remarks on village soviets

The statutes of the village soviets listed 17 fields of activity, which included, among other things, planning and statistics, organisational work among the masses, agriculture, and trade. The tasks were quite general in nature. In October 1945 a regulation¹¹⁹ was issued whereby the village soviets were enhanced by increasing their members to a team of five. In addition to the chairman and a secretary, three other ‘politically loyal’ persons were to be elected.

The establishment of the village soviets did not meet expectations, according to Paavle (2009a, p. 109). It was often the case that people did not know where the village soviet was located and, what is more, only two of the posts were paid positions – that of the chairman and the secretary (Paavle, 2009a, p. 109). As village soviets were not capable of fulfilling the tasks assigned to them, the main burden of responsibility fell to the executive committees of the rural municipalities (Paavle, 2009a, p. 109). To this end, the village soviet became an irritating link between the rural municipality and its residents (Paavle, 2009a, p. 109). Paavle concludes that during the initial years the problems related to the village soviets were not so much attributable to the weakness of the personnel of the rural municipality, but rather to the complexity of the system and the extraneous level in the three-tier administrative system.

5.3 LOCAL ADMINISTRATION AT THE BEGINNING OF THE 1980S

According to Scurlock (1980, p. 169), ‘each Soviet constitution strictly represents an epoch’. As the subsequent constitution after the one in 1936 at the Soviet Union level was adopted in 1977, and as the Estonian SSR had two constitutions during the Soviet period (one adopted in August 1940 and the other in April 1978), 1978 duly seems to be an appropriate starting point for analysing the local administrative system at the end of the Soviet period.

One reason for the adoption of the new constitution in the Soviet Union in 1977 was ‘the passing of the dictatorship of the proletariat’ (Scurlock, 1980, p. 171). What is clear is that the republic’s constitution of 1978 increased the role of the local soviets. Scurlock has identified the two biggest changes in the 1977

¹¹⁹ Regulation on Reinforcement of Village Soviets of Estonian SSR of 1945 (*Eesti NSV Rahvakomissaride Nõukogu ja Eestimaa Kommunistliku (bolševike) Partei Keskkomitee määrus Eesti NSV küla töörahva saadikute nõukogude tugevdamise kohta*).

constitution of the Soviet Union compared to its predecessor as being ‘the much greater legislative and administrative authority’ of the Soviets of People’s Deputies, and ‘the greater involvement of the people in the affairs of government’ (1980, p. 174). Article 76 of the Constitution of the USSR stipulates that a ‘union republic has its own Constitution conforming to the Constitution of the USSR and taking into account the particular characteristics of the republic’. Hence, all of the union republics adopted their new constitutions in 1978.

When examining the Constitution of the Estonian SSR of 1978, it is apparent that the Soviet of People’s Deputies at the local level was still the organ of state power, but Article 125 stated that the ‘Local Soviets of People’s Deputies decide on all matters of local significance, proceeding on the premise of the general interests of the citizens living within the territory of the Soviet ... participate in the discussion of matters of republic and All-Union significance, and submit their proposals in regard to them’.¹²⁰ What can be inferred from this is that, compared to the Constitution of 1940, the local authorities were foreseen to have more say in local matters, at least formally. Due to the new Constitution of 1978, new legal acts concerning local soviets were adopted in 1979.

Despite the perestroika at the end of the 1980s, the sessions of the local soviets took place in 1988 in the same manner as they had done 10 or 20 years earlier (Käbin, 1988, p. 52). Moreover, there were no major amendments to the legislation governing the local soviets in Estonia during the period from 1978 to 1988. If one compares the minutes of the Põltsamaa city soviet of 1979 with those of 1988, in both cases the session agenda was dominated by routine informative items.

5.3.1 ADMINISTRATIVE-TERRITORIAL UNITS

After 1978, there were no major changes in the administrative-territorial organisation. There were 15 raions and six cities that were subordinated to the state level, and which were also listed in the Constitution of 1978. When compared to the Constitution of 1940, the cities of Kohtla-Järve and Sillamäe were new additions. Truuväli (2008, p. 335) has called the first a ‘conglomerate of settlement units’ and the other a ‘forbidden city’. Kohtla-Järve had been subordinated to the republic as early as 4 April 1947 (Uuet, 2002, p. 82) and was listed as a republic city in the Constitution of 1940, as amended in 1950. Sillamäe town was categorised as a city subordinated to the republic in June 1957 (Uuet, 2002, p. 155). In 1947, the construction of a uranium enrichment plant got underway in Sillamäe, which was classified information. The town was also situated in a specific zone, which could only be accessed by means of a permit. Hence, the reason for adding Sillamäe to the

¹²⁰ Article 125 of the Constitution of the Estonian SSR of 1978 was identical to Article 146 of the Constitution of the USSR of 1977.

list of republic-subordinated cities did not stem from its size, but from its importance. Further, the number of village soviets had decreased as a result of amalgamations, and by 1979 there were 194 in existence.

5.3.2 LOCAL SOVIETS

The first special law on local soviets in Estonia was adopted in 1968 (Uuet, 2002, p. 192).¹²¹ As the new Constitution was adopted in 1978, new special laws on local soviets followed suit the year after. At the end of the 1980s, the main legislation governing the work of the local soviets comprised the Constitutions of the USSR and ESSR, the USSR Act on the status of the USSR deputies, and the ESSR Act on the soviet of people's deputies (either on raions, cities and city raions, or towns and villages, respectively). The real power, to the extent that it existed, was still in the hands of the executive committee, not in those of the soviet.

In June 1987, local elections in Estonia still took place under single-candidate election principles and single-mandate constituencies. However, some experiments with competitive elections were conducted in the Soviet Union that same year – ‘about 5 percent of the local deputies were to be elected in the new multimember districts’ (Hahn, 1988, p. 434). In Estonia, the number of candidates exceeded the number of mandates in Haapsalu raion (Liivik, 2011, p. 1).

During the whole period, it was deemed important to involve as many people as possible in the work of the local soviets. Table 5.2 illustrates how one of the requirements of the Programme of the Communist Party of the Soviet Union was implemented (CPSU, 1961, p. 93):

To improve the work of the Soviets and bring fresh forces into them, it is advisable that at least one-third of the total number of deputies to a Soviet should be elected anew each time so that fresh millions of working people may learn to govern the state. The Party considers systematic renewal of the leading bodies necessary to bring a wider range of able persons into them and rule out abuses of authority by individual government officials. It is advisable to introduce the principle that the leading officials of the Union, republican and local bodies should be elected to their offices, as a rule, for not more than three consecutive terms.

¹²¹ In 1968, the Act on Village and Town Soviets of the Estonian SSR was adopted (*Seadus Eesti NSV küla ja alevi töörahva saadikute nõukogu kohta*), followed in 1971 by the Act on Raion Soviets of the Estonian SSR (*Seadus Eesti NSV rajooni töörahva saadikute nõukogu kohta*), and the Act on City and City Raion Soviets of the Estonian SSR (*Seadus Eesti NSV linna ja linnarajooni töörahva saadikute nõukogu kohta*).

Table 5.2 *Renewal of the composition of soviets in the Estonian SSR (percentage of deputies elected to the soviet for the first time compared to all deputies)*

Soviet level	Election year										
	1957	1959	1961	1963	1965	1967	1969	1971	1973	1975	1980
Raion	60.1	68.1	58.8	65.4	64.0	57.0	46.8	52.4	47.9	44.9	52.0
Republic city	60.0	59.4	55.9	72.6	67.6	60.2	48.7	59.2	60.2	52.4	58.5
City raion	67.1	61.6	65.9	76.1	75.0	57.3	53.2	60.8	53.7	61.1	53.8
City subordinated to raion	63.0	66.7	57.9	69.7	59.7	48.1	44.1	44.3	44.9	40.7	49.1
Village	54.1	52.3	47.1	58.1	53.2	43.1	39.4	40.3	41.9	40.4	48.6
Town	59.1	52.0	45.3	66.1	53.2	49.8	44.1	45.2	48.8	44.9	52.0

Source: Truuväli, 1986b, p. 152.

The Soviet Union period also brought more females to the local soviets and to their executive committees. For example, while in 1948 32.6% of the deputies were female, in 1980 this indicator had already risen to 49.1%. When it came to the chairs of the executive committees, 56% of the chairs in village soviets were female, for example, and 75% in town soviets in 1982 (Truuväli, 1986b, p. 170).

Raion soviets

Raion soviets were elected under the Act on Raion Soviets of 1979¹²² for a term of two and a half years by the people living in the territory of the respective raion. According to Section 8 of the act, the raion soviet had the power to annul the acts of the soviets and executive committees of the cities subordinated to the raion level, towns, and villages where these acts did not comply with the law. The soviet of people's deputies' sessions had to be held at least four times per year. Both the higher- and lower-level soviet deputies were able to participate in the sessions with an advisory vote, although those at the lower level were able to attend by invitation only.

The executive committee was a collegial body whose members – the chairman, deputy chairmen, secretary, and five to seven additional members – were elected from and by the soviet of people's deputies. Under Section 43, the executive committee was accountable both to the local soviet that elected it and to the Council of Ministers of the ESSR. In line with dual subordination, the raion soviet and the Council of Ministers had the power to annul the decisions and orders of the raion's executive committee. In turn, the raion executive committee had the power to annul decisions made by the lower-level executive committees.

¹²² ESSR Act on the Estonian SSR Raion Soviet of 1979 (*Eesti Nõukogude Sotsialistliku Vabariigi seadus Eesti NSV rajooni rahvasaadikute nõukogu kohta*).

The departments of the executive committee were subordinated to the raion soviet and its executive committee as well as to the respective higher authorities. To this end, the financial department of a raion (or city) was subordinated to the raion (or city) soviet of people's deputies, to its executive committee, and also to the Ministry of Finance of the ESSR. There were 21 financial departments in Estonia (15 at the raion level and 6 in independent cities). Salaries and bonuses of the financial department were paid from the Ministry of Finance's budget, namely there was no budget line for the department in the raion budget. Based on these financial departments, a tax authority was created at the beginning of the 1990s (personal interview, 8 February 2011).

Executive committee administrations existed in addition to the departments of the executive committee. The establishment of the departments and administrations and the appointment of their leaders were under the exclusive competence of the people's deputies' sessions. The appointment of other top-level officials of the departments and administrations was under the competence of the executive committee. The latter held meetings at least once a month. For example, 17 executive committee meetings were held in the Paide raion in 1987, but only three sessions of the raion soviets. Standing committee meetings were more frequent (Paide Rajooni Rahvasaadikute Nõukogu Täitevkomitee, 1987).

The list of standing committees and their respective tasks were set out in the Act on the Raion Soviets. Only the deputies belonged to the standing committees, and not the members of the executive committee. In addition, the soviet could establish temporary committees. Cooperation between standing committee members of a raion and of a town or village was one form of coordination that also took place through the sessions held on the premises of local enterprises (Kodu, 1979, pp. 31–32). In addition, the chairmen of the respective standing committee at the town or village level took part in standing committee meetings at the raion level and contributed to drafting the raion standing committee's work plan (Kodu, 1979, p. 32).

Under Section 75 of the Act on the Raion Soviet of 1979, the deputies were expected to follow national interests, to consider the needs of the people in their constituency, and to implement electorate guidelines. If a deputy's employer wished to release him or her from the duties connected to their main job, the pre-approval of the raion soviet or the executive committee was required. This was only one of several guarantees and benefits that a deputy was entitled to.

Raions continued to have no jurisdiction over the larger cities. Compared to the lower-level soviets, one of the differences concerned the larger budgetary powers. The centralisation that took place in the 1970s resulted in the consolidation of the management functions of different organisations (schools, kindergartens, libraries, etc) in rural areas to the executive committee of the raion. Lower-level soviets did not have their own bookkeeping function (Russak, 2009, p. 64). The deputy chairman of a raion

soviet's executive committee who was interviewed (personal interview, 7 February 2011) even said that, figuratively speaking, he was basically a city mayor because the departments of public utilities, education, and culture – all of which were city-related – were under his jurisdiction.

Based on a summary of the Paide raion executive committee's work in 1987 (Paide Rajooni Rahvasaadikute Nõukogu Täitevkomitee, 1987), one of their main tasks was to broaden socialist democracy, as required by the party. This implied increased contact and involvement with the population, and meetings with working people were one means of fostering this.

In November 1986, Gorbachev's perestroika idea 'gave a big boost to democracy movements in Eastern Europe' (Giugni, 1998, p. 372). It also motivated the Harju raion executive committee to submit a proposal to the Council of Ministers of the ESSR on increasing the relevance of the raion soviet. The aim was to bolster the power of the executive committee in the management of economic and social issues (Russak, 2009, pp. 68–69). The head of the financial department of the Harju raion had also been leading the work on drafting the concept of the self-managing village soviet (Russak, 2009, p. 69). The fact that a raion level was willing to grant the lower levels greater powers might have indicated a wish to return to local self-governance, which the Soviet power had eliminated.

City, town and village soviets

In the 1980s, the soviets of people's deputies were elected at the local level for a period of two and a half years, in a similar fashion to the raion level, but there was still only one candidate per seat.

The operations of the city and city raion soviets and town and village soviets were regulated rather similarly.¹²³ The structure of the city soviet is presented in Figure 5.1. In the case of the city soviets, the specific rights and duties depended on whether the city was subordinated to the republic or the raion level. Similarly to the raion, the soviet sessions were to be held at least four times a year.

¹²³ ESSR Act on City and City Raion Soviet (*ENSV seadus linna ja linnarajooni rahvasaadikute nõukogu kohta*) and ESSR Act on Town and Village Soviet (*ENSV seadus Eesti NSV alevi ja küla rahvasaadikute nõukogu kohta*) (as of 1987).

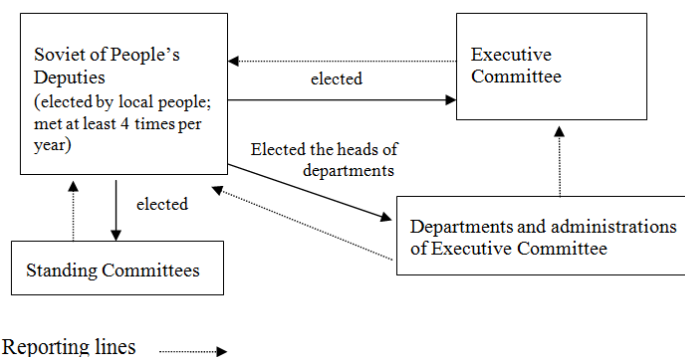


Figure 5.1 Structure of city soviet

The village soviets had somewhat different tasks, however, as they were highly involved in operating the collective and state farms. At least one person indicated in his responses to the Estonian National Museum questionnaire¹²⁴ (Estonian National Museum, 2005, p. 124) that agricultural holdings had more power in rural areas than village soviets had, because the activities of the holdings determined the life and conditions in the village. The same sentiments were confirmed by another respondent about the 1960s, and yet another about the 1970s (Estonian National Museum, 2005, pp. 26, 211). As the collective farms in rural areas provided local services, the Soviet system 'restored the old (pre-1918 republic) pattern of local government in Estonia that was once operated by the main economic structure (manors)' (Sootla, Kalev, & Kattai, 2009, p. 53). The post of chairman of the village soviet was not very prestigious (Russak, 2009, p. 72). On the other hand, there were also village soviets which exercised authority (Estonian National Museum, 2005, p. 199). As a rule, however, the village soviets did not decide anything, but were 'simply the arm extension of the state in a village' (Russak, 2009, pp. 18, 26–27). Village soviet budgets were comprised of maintenance costs and the salaries of a handful of people, therefore village soviets did not participate in the process of the establishment of the budget. The chair of the executive committee of a village soviet had no room for manoeuvre when it came to finances, and he or she had only a partial say in the allocation of car purchase permits, for example (personal interview, 8 February 2011).

The executive committee members were elected from among and by the members of the soviet of people's deputies. The executive committee of a city or city raion was composed of a chairman, deputy chairmen, secretary, and 5 to 11 members in accordance with the Act of 1987. For towns and villages, the set-up comprised a chairman, a deputy chairman, a secretary, and 2 to 4

¹²⁴ The Estonian National Museum houses a collection of people's narratives and memoirs. In 2005 the questionnaire theme was *Inimene ja võim* (Person and power).

members. The structure of the executive committee was more complex than that of the city government during the interwar period.

When it came to the village soviets, in 1980 71.4% of the members of the executive committee belonged to the CPSU; the corresponding figure in 1948 was 12.1%, 20.2% in 1953, and 37.1% in 1957 (Truuväli, 1986b, p. 149). It is also worth pointing out that the educational level attained by members also increased during that period: while in 1948 only 25.5% of the members of the executive committee had an educational level higher than the basic level, in 1957 this figure was 40.8%, while in 1980 it topped 98.5% (Truuväli, 1986b, p. 149).

The fact that the local soviets did not possess real power as such was also illustrated during the interviews:

[...] the local government of the Soviet time cannot be seen as local self-government. It was purely an extension of the arm of the state and implemented the guidelines given by the erstwhile party. This is because if we think about the local soviet and executive committee, all of the issues discussed in the local soviet were prepared at some higher level far away. [...] In reality, the decisions were just approving the decisions already adopted at the higher level. If we think about the local soviet agenda items, then the majority of these were all provided, as well as the replies. There was really not much chance of giving a different reply; people may have thought differently, but they were not inclined to voice their thoughts out loud.

(Personal interview, 21 September 2010)¹²⁵

Despite the fact that there was no mayor during the Soviet period, but rather a chairman of the executive committee (*täitevkomitee esimees*), in several cities people unofficially used the term ‘city mayor’ (*linnapea*) (personal interview, 23 September 2010; Lukas, 2007, p. 184) or ‘rural municipality mayor’ (*vallavanem*, in the case of a rural municipality) (Lukas, 2007, p. 27). The use of interwar local government terminology at the end of the 1980s, also in the media, can be seen as a way of dismantling the iron curtain piece by piece (Lääne, Mäeltsemees, Vare & Kattai, 2017, p. 87). The chairman and the members of the executive committee were appointed by the local soviet from among its deputies. The executive committee chairman’s term was equal to that of the people’s deputies, and a chairman of the people’s deputies’ session was elected at every session accordingly.

The fact that the executive committee was still more important than the soviet of people’s deputies is reflected in the legislation of 1979 in that the soviet meetings were to be held at least four times per year. If we view the minutes of the soviet of people’s deputies’ sessions in Põltsamaa city in 1979,

¹²⁵ The interviewee had become a local soviet deputy in 1985 and the chairman of the executive committee of a small city in 1987.

it is clear that the majority of the agenda items were informative. The executive committee held meetings once per month on average and they also took some decisions. In 1988, five soviet sessions and 14 executive committee meetings were held in the same municipality.

The raion city's executive committee was accountable to both the city soviet, which appointed it, and to the executive committee of the raion. Similarly, the executive committee of a republic city was accountable to its soviet and to the Council of Ministers.

5.4 DISCUSSION AND CONCLUSION

The local authorities' transformation to the Soviet system was different from the transformation that occurred in 1917 and the years that followed, the main difference being that under the Soviet power there was a model according to which the local government in Estonia had to be transformed, at least formally. The general legal framework was foreseen in the Constitution of the USSR, which came into force in Estonia in August 1940.¹²⁶ There was little room for debate as it entailed, as in many other countries, 'the imposition of the Soviet (Stalinist) State model to ensure a centralist Communist Party rule' (Wollmann, 2010, p. 252). Likewise, it was a transformation to 'a regime that sought to control all aspects of public and private life' (Fijalkowski, 2010, p. 1). As we have seen, the Estonian authorities sent requests to Moscow to have the formal structure of local authorities adapted to the Estonian context, but these requests were often rejected.

For Joseph Stalin, 'proper leadership' involved putting emphasis on the 'selection of officials' and 'checking up on fulfilment' (Stalin, 1995, p. 11), and hence personnel changes were to be expected. Due to the *nomenklatura* system, special patron-client relations developed (i.e. officials being dependent on the persons who had appointed them) at all levels of power (Tannberg, 2007, p. 257).¹²⁷

¹²⁶ The constitution emphasised that the local organs of the state authority were the Soviets of Working People's Deputies, elected every two years (Articles 94 and 95). The executive and administrative organs of the Soviets of Working People's Deputies are the Executive Committees, duly elected by deputies, consisting of a Chairman, Vice-Chairmen, a Secretary and members (Article 99). When it came to dual subordination, it was stated that: 'The executive organs of the Soviets of Working People's Deputies are directly accountable both to the Soviets of Working People's Deputies which elected them and to the executive organ of the superior Soviet of Working People's Deputies' (Article 101).

¹²⁷ According to Tannberg, the leaders of the Soviet Republics also had their so-called patrons in Moscow who put in a good word for them. One such case concerned the relationship between the Estonian party leader, Karotamm, and the Chairman of the RSFSR Supreme Soviet, Andrei Zhdanov, from 1940 until 1948 when Zhdanov died (Tannberg, 2007, p. 257).

Local self-government was demolished forthwith within the first year of Soviet occupation. This was carried out mainly by eliminating the local leaders in 1940 and replacing the local governments with local bodies of central government. The first local elections during the Soviet era did not take place until 1948, but even then we cannot talk about elections and the representative body in the same way as during the independence years. Indeed, it is more appropriate to talk about nomination rather than election in this context. Even though local elections were held from 1948 onwards, they were not competitive and the soviets remained 'local bodies of the state authorities' under the constitution and legislation. Consequently, it is not possible to talk about local self-government as such during the Soviet era. Comparing the interwar local government and the Soviet local authorities might seem like comparing apples to oranges or a green apple with a red one: 'when one seeks to distinguish the colour quality of redness between the two [apples, it] does not make particular sense; yet if one compares an apple with an orange when one seeks to compare their nutritional qualities, this *should* arguably make good sense' (Platsas, 2008, p. 7; emphasis in original).

First of all, the formal rules governing local administration were more detailed in the Constitutions of 1940 and 1978 than they were in the interwar constitutions. A case in point is the list of departments of the executive committee in the constitution. Although '[h]uman beings may come to prefer a given institutional arrangement because it is what they are used to' (Steinmo, 2008, p. 129), it was not possible at the local level in many places during the Soviet era to continue with the old practices under the new rules. For one, most of the people occupying top posts at the local level had been eliminated, and for another, the new personnel were often trained according to the new norms. This interrupted the path and former positive feedback mechanisms. Instead, the abroad-trained personnel without experience in the interwar local government helped to enforce the new path.

In the 1920s and 1930s, one of the main issues concerned whose interests the county should represent (the state or local government or both), and whether this level was needed at all. As the institutions across the Soviet republics were more or less identical, there was little leeway for adapting the structures formally to meet local needs. One example was the abovementioned case of asking for permission to create specific departments within the executive committees in autumn 1945. Moreover, as local soviets were state authorities, the formal regulation was centralised. The local soviets were the channels and sources of information for the higher levels. They were also used to involve as many people as possible. If we consider the percentage of people who were voted into the local soviets for the first time from 1957 to 1980, on average it was usually between 42.7% and 63.1%.¹²⁸ Knowing that these people were pre-selected, it once again demonstrates a tool for mass participation, and indicates that involvement was more important than representation.

¹²⁸ Based on data in Truuväli, 1986b, p. 152.

In the 1920s and 1930s, public services were partly the responsibility of the local authorities, but during the Soviet era enterprises took care of social affairs in the rural areas. The somewhat bottom-up system of the interwar period was replaced with a top-down one, run by the Communist Party.

Despite the fact that external factors caused a departure from the path-dependent development of local government in Estonia, and institutions were at least formally replaced with a pre-determined model, there were practices that reflected the remnants of the interwar system – the chairman of the executive committee was sometimes referred to as mayor; in some raions the chairmen of the executive committees held monthly meetings or training days in the raion on the day they went there to pick up the payroll money for the village/town/city soviet officials (personal interview, 7 February 2011), and so forth. Darden and Grzymala-Busse (2006, p. 111) have analysed the communist exit from power in the former Soviet Union countries and argued that ‘precommunist nationalist schooling produced the shared memories and standards that made popular acceptance of communist rule unlikely’. By all accounts, at the onset of communist schooling, Estonia was a country with one of the highest literacy rates (99%) (Darden & Grzymala-Busse, 2006, p. 114).

To conclude, in the 1940s the development of local government moved onto a new path, mainly pre-determined by foreign powers. There is enough evidence to claim that the old, interwar institutions were mainly ‘abolished’ or replaced. This substantiates the exploration of possible institutional revivals of the interwar period in the post-communist period.

6 DEMOCRATIC REVIVAL AT THE LOCAL LEVEL

This chapter focuses on the main aspects related to the re-establishment of local self-government in Estonia. First, an overview will be provided of the principal legislation on local government during the period from 1989 to 1993, which also marked a critical juncture. After that, key aspects of the effective creation of local self-government will be analysed, as well as the electoral system and the mayor's role in the post-communist period.

6.1 GENERAL CONTEXT

Crucial developments took place at the end of the 1980s, both at the Soviet Union level and at the level of its republics, which paved the way for the independence of the latter. 'In many ways Estonia set the pace in political development among erstwhile USSR republics during the crucial years of 1989–93. It was the first to adopt a new constitution (on 28 June 1992) and to hold post-independence parliamentary elections (on 22 September 1992)' (Grofman, Mikkel, & Taagepera, 1999, p. 227). Estonia was also the first republic in the USSR to adopt a Declaration of Sovereignty on 16 November 1988. This Declaration 'created a possibility to start the administrative and local government reform' (Reimets, 1998, p. 19) in Estonia, and stated the supremacy of the Estonian SSR law.¹²⁹

According to Maruste and Schneider (1997, p. 23), the declaration was formally legitimate, as 'the Constitution recognised the sovereignty of the Union Republics', but the problem was that 'sovereignty' had a different meaning in the Declaration than it did in the USSR in general. 'In the totalitarian USSR the sovereignty of a Union Republic meant limited autonomy, mainly in deciding internal issues' (Maruste & Schneider, 1997, p. 23) or 'freedom to act within the framework of the Soviet Union' (Kalmo, 2011, p. 271). On the other hand, the Declaration set out the supremacy of Estonian law on the territory of Estonia over the law of the Soviet Union. The USSR leadership deemed the Declaration to contradict the Constitution of the USSR and hence to be null and void (Maruste & Schneider, 1997, p. 23), 'but they also admitted that it was an expression of legitimate concerns' (Kalmo, 2011, p. 282).

¹²⁹ The Estonian Supreme Council anchored in the Declaration of Sovereignty two principles related to USSR legislation – in the future the amendments to the USSR Constitution would come into force on the territory of the Estonian SSR only after they had been approved by the Supreme Council of the Estonian SSR, and the respective amendments had been made in the Constitution of the Estonian SSR.

Käbin (1988, p. 51) stated at the beginning of 1988 that during the perestroika period one of the most important tasks of the constitutional law experts and politicians was to re-establish the correct and adequate content of the term 'sovereignty of the union republic'. Walker (2003, p. 1) claims that "Sovereignty" killed the Soviet Union [...] as a territorial state'. He argues that the 'anti-union opposition' used the concept of sovereignty increasingly effectively compared to other concepts (e.g. democracy) in order to 'challenge the authority of the USSR's central government' (2003, p. 1).

On 16 November 1988, the Supreme Council of the Estonian SSR also discussed the proposed changes to the Soviet Constitution and deemed them to contradict the resolutions of the 19th conference of the Communist Party of the Soviet Union. Based on the stenograph of the session (SSCE, 1989, pp. 37–39), it can be claimed that the Declaration of Sovereignty was a countermeasure to the proposed amendments to the Soviet Constitution. As one of the deputies said (SSCE, 1989, p. 37): 'With the respective amendments and supplements to the Constitution of the Estonian SSR, we simultaneously disprove the claim that there would be no legal mechanism which could block the ideology that is presented in the amendments to the Soviet Constitution, and which limits the sovereignty of a Soviet republic'. The use of the term sovereignty and its interpretation can be regarded as an example of what Mahoney and Thelen (2010, p. 4) have argued, namely that 'institutional change often occurs precisely when problems of rule interpretation and enforcement open up space for actors to implement existing rules in new ways'.

Over time, Estonian measures to regain political and economic independence became more varied and specific. These measures included, for example, negotiations, proposals to restore the Republic of Estonia on the basis of the Tartu Peace Treaty, and focusing on a specific way to break away from the Soviet Union (Maruste & Schneider, 1997, p. 28). On 30 March 1990, the Supreme Council of the Estonian SSR adopted a decision¹³⁰ in which it announced the re-establishment of the Republic of Estonia (*restitutio ad integrum*), and a transition period that would culminate in the establishment of the constitutional state authorities of the Republic of Estonia. The Act on the Fundamentals of the Temporary Arrangement of Governance of the Republic of Estonia was adopted on 16 May 1990. The name 'Republic of Estonia' was duly stipulated in the legislation¹³¹ on 8 May 1990.

Moscow disapproved of these developments and threatened Estonia with an economic blockade to force the Baltic country to reconnect with the Soviet Union (Maruste & Schneider, 1997, p. 29). However, in January 1991, an agreement was signed between the Russian SFSR and the Republic of Estonia, recognising the sovereignty of both states. In the referendum in March 1991,

¹³⁰ Decision on National Status of Estonia of 1990 (*Eesti NSV Ülemnõukogu otsus Eesti riiklikust staatusest*).

¹³¹ Act on Estonian Symbols of 1990 (*Seadus Eesti sümbolikaast*).

Estonian residents supported Estonian independency. On 20 August 1991, the day after a failed coup attempt, nationhood was re-established 'both *de jure* and *de facto*' (Maruste & Schneider, 1997, p. 30), and a decision was made to form a Constitutional Assembly to draft the new Constitution, not least because the Constitution of 1938 was outdated.

Decentralisation in Estonia started with political decentralisation because local elections under new regulations took place at the end of 1989.

6.2 DEVELOPMENT OF THE LEGAL FRAMEWORK FOR LOCAL GOVERNMENT AND FOR ADMINISTRATIVE REFORM

Although 'transformation and systemic change is [...] only to a limited extent a matter of law making' (Elster, Offe, & Preuss, 1998, p. 18), the legislation on local government defined the roles and powers of different actors at the local level. The main steps towards the restoration of local self-government took place in 1989 (Mäeltsemees, 2014):

- 8 August 1989 – Local Soviets Election Act and Decision on Implementation of Administrative Reform. According to Mäeltsemees (2013), this decision was the first legal act of its kind in Central and Eastern Europe which stipulated the establishment of a (democratic) public administration that was different from the centralised system;
- 10 November 1989 – Local Government Fundamentals Act (LGFA);
- 6 December 1989 – Decree on the Creation of an Administrative System Based on Local Government;
- 10 December 1989 – Elections of local councils (the first (almost) free election for half a century).

The administrative reform, initiated at the end of the 1980s in Estonia, implied the 'introduction of a self-regulatory management model, where a certain territorial group of people solves all the issues it is capable of solving, either independently or through the representatives it has elected' (SSCE, 1990, p. 24). The territorial administrative system of local government was determined in May 1989 in the Act on Principles of Economic Autonomy for Estonia, which included a provision on the decentralisation of local administration. It foresaw that the territorial administrative system of the Estonian SSR would consist of:

- a) County cities, towns and rural municipalities as the primary or lower-level administrative units (to be formed on the basis of the raion-subordinated cities, towns and village soviets); and
- b) Cities and counties of the republic as the secondary or higher-level administrative units (to be formed on the basis of cities subordinated to the republic, and on the basis of raions).

According to Almann (1995, p. 448), while the Continental European model was followed for the most part in the decentralisation of local government, the interwar system was observed when it came to the organisational development of local self-government. In the case of the legal acts of 1989, these were drafted primarily by intellectuals with the involvement of a broad range of actors. The principles or bills were sometimes published in the main newspapers and received feedback from various groups and individuals. On the other hand, the legislation of 1993 was driven more by political considerations.

Local Soviets Election Act of 1989

The new local government system that was to be established was one of the prerequisites for the transition to a 'self-managing Estonia', while the election of local representative bodies would launch the administrative reform, led by the newly elected representative bodies (SSCE, 1990, pp. 23–24).

The opinions and feedback submitted on the Local Soviets Election Bill were legion, amounting to more than 1,500 pages. Feedback was also received from Professor Rein Taagepera (1988), who was working at that time at the University of California. In addition to the requirement of supporting signatures, he proposed introducing the bail requirement to pre-empt a person from running as a candidate too easily. Added to this, he recommended multi-mandate electoral districts, clarifying how the mandates should be allocated or awarded, as it was apparent that those who had drafted the principles of the bill did not really know the specificities of the procedure and how to design it. In this way, Taagepera was able to pinpoint any bottlenecks that might occur.

As all of this was taking place in 1989, efforts were made not to contradict the provisions of the USSR Constitution when drafting the election acts (Vare, 1989, pp. 87–88). In addition, it was hoped that the use of multi-mandate districts would reduce possible tensions between different nationalities (Vare, 1989, p. 91). Hence, the context was not without its constraints.

The bill of the Local Soviets Election Act foresaw that the local soviets themselves would be able to decide whether to use a single-mandate or multi-mandate electoral district (SSCE, 1990, p. 26). It also proposed a two-year residency requirement in the respective municipality as a prerequisite for being able to vote (SSCE, 1990, p. 27), but the 'Soviet protests forced suspension of this restriction' (Grofman, Mikkel, & Taagepera, 1999, p. 231). Initially, a single non-transferable vote system was offered, but after public consultations it was decided that the bill would be presented to the Supreme Council introducing a single transferable vote method, as the latter reduces the number of wasted votes. This was considered to be the most rational choice, based on the general practice in the rest of the world (SSCE, 1990, pp. 32, 35). In addition, 'it satisfied the Communists' need to avoid party lists while still leading to a form of proportional representation' (Grofman, Mikkel, & Taagepera, 1999, p. 236). Compared to the old system, several changes were

fundamental and therefore an amendment to the Constitution of the Estonian SSR was required.

The most debated issue during the public consultations and also in the Supreme Council was the suffrage qualification or, more precisely, the residential qualification (*paiksustsensus*). The proposals varied from no residential qualification requirement to a requirement of Estonian residency for a period of 10 years in the case of voters, and 20 years for candidates (SSCE, 1990, p. 86). As ESSR citizenship was not legally defined elsewhere in the legislation at the time, a decision was made to introduce the requirements for a citizen's voting right into the local authorities' election act (SSCE, 1991, p. 6). Although it was recognised (SSCE, 1991) that the retroactive effect of the residential qualification of two years was not in line with the principle of the rule of law, it was nonetheless retained. In October 1989, two months after the adoption of the Election Act, a decision was taken not to implement the legal provision on the residential qualification for the local elections in December 1989 (SSCE, 1991, pp. 6, 92). This reveals the activation of a communist legacy, which Crawford and Lijphart (1995) have called the 'legacy of incomplete nation building', and which, according to them 'means that the issue of who is included in the nation and who *is not* included' had been placed on the political agenda (pp. 186–187; emphasis in the original).

The finally adopted Election Act set out the following:

- The mandate of local soviets would be five years;
- Electoral districts would be single-mandate or multi-mandate;
- There had to be more candidates than mandates in every electoral district;
- The right to vote would be granted to Estonian citizens who had been living in the territory of the respective local soviet for at least two years prior, or in the ESSR for a total of five years;
- The right to run as a candidate would be granted to Estonian citizens who had been living in the territory of the respective local soviet for at least the last five years, or in the ESSR for a total of 10 years;
- Every voter had one vote.

Decision on administrative reform in the Estonian SSR

The decentralisation of territorial administration and the composition of the territorial administrative system had already been laid out in the Act on Principles of Economic Autonomy for Estonian SSR of 1989 (Section 11). This was repeated in the Decision on the Implementation of Administrative Reform of 8 August 1989. The second tier was going to be both the self-governing level and the national administration's regional level. The republic cities were also going to fulfil the functions of the primary-level local government.

In line with the Decision, it was foreseen that in order to transition from the old administrative system to a self-government-based administrative

system, an administrative reform would need to be carried out in Estonia from 1990 to 1994. The reform was to comprise the following:

- 1) Decentralisation of the power to local self-government levels and a clear separation of national and local self-governmental management;
- 2) Reorganisation of the territorial-administrative structure.

The responsibility for implementing the reform at the local level was given to the local councils (i.e. the representative bodies). The county councils and republic city councils were to become operational as of 1 January 1990. In the case of the primary level, the representative bodies started to function as councils only after the self-governing status of the municipality in question had been endorsed. It had to be ensured through the administrative reform that the 'local government system would be capable of solving practical issues of ownership reform, land reform, agricultural reform and other reforms under discussion, and to implement those reforms' (Almann, 1995, p. 449).

In February 1991, the government adopted a regulation on the formation of the Administrative Reform Committee of the Government of the Republic of Estonia. The committee was composed of 21 members, including different ministers or their deputies, mayors of different types of administrative units, representatives of local government associations, and the chairman of the administrative reform expert committee. Based on the statute of the administrative reform committee,¹³² the main tasks of the committee were (a) to improve the management of the administrative reform at the state level, (b) to analyse and resolve issues related to the activities and structure of government bodies and to the re-establishment of the local government system, or to draft corresponding/relevant proposals, and (c) to co-ordinate the activity of the government, and local government bodies and their associations.

Local Government Fundamentals Act of 1989

Estonia was the first of the transition countries to adopt a local government act.¹³³ The urgency for a legislative framework for local government was reinforced by the approaching local elections, which were to be held on 10 December 1989 (Lääne, Mäeltseemes, & Ludvig, 2012, p. 10). On 29 May 1989,

¹³² Regulation on Approval of "Statute of the administrative reform committee" of 1991 (*Eesti Vabariigi Valitsuse määrus "Eesti Vabariigi Valitsuse haldureformi komitee põhimääruse" kinnitamise kohta*).

¹³³ 'Estonia was followed by Lithuania in 1990 (Law on the Fundamentals of Local Government, 12.02.1990), Latvia (Law on Local Governments, January 1990), Poland (Act 95 of 1990 on Local Self-Government), Slovakia (Act No. 369/1990 Local Government Act), Czech Republic (Act of the Czech National Council No. 367 of 1990 on municipalities), Hungary (Act No L1990 on Local Self-Government). [...] In 1991 the local government act was adopted in Bulgaria, the former Yugoslavia Republic of Macedonia, Romania and Belorussia, in Albania in 1992, in Slovenia in 1993, and a year later in Ukraine' (Mäeltseemes, 2013).

the Council of Ministers of the ESSR decided to establish several working groups, including one on local government, which was given the task of drafting the local government act by 1 September 1989 (Eesti NSV Ministrite Nõukogu, 1989, May 29, pp. 1, 6). This working group published the main principles of the act in newspapers on 13 July, and the bill itself in October 1989. They received feedback from ministries, many local soviets and experts, including, for example, the Finnish Commission for Local Authority Employers (*Kunnallinen Työmarkkinalaitos*). The latter emphasised the importance of the rural municipalities and their size, but also the local-central relations (see Juurinen, 1989). The Local Government Fundamentals Act (LGFA) was adopted on 10 November 1989, creating ‘the legal basis for restoration of the local government system’ (Olle, 1996). The LGFA was the first main legal act of the legislative package of the Self-Managing Estonia (or an Economically Autonomous Estonia, IME¹³⁴) (SSCE, 1991, p. 28). The aim was to implement the gradual and contractual transfer of tasks and responsibilities from the raion/county level to the cities and rural municipalities, whereas a highly disputed issue was how to define the competences of different authorities (SSCE, 1991, p. 30). The LGFA only set the general framework for local government and included numerous references to the city, rural municipality, and county acts, which were to be adopted in the future and would determine the tasks of the local authorities in more detail. The bills were drafted at the Ministry of Justice, but no legislative proceeding followed. The idea of separate, special laws was dropped after an analysis of the interwar Estonian system and the Nordic countries’ experience (Lääne, Mäeltsemees, Vare & Kattai, 2017). While the Estonian interwar experience provided the inspiration for establishing separate acts, the Nordic experience – especially that of Finland – suggested a common act.

The LGFA foresaw a two-tier local government system and four local government bodies: a council (or city/rural municipality soviet), a mayor (or chairman executive committee), a city/rural municipality government (or executive committee), and an audit committee. The operational arrangements for the local government bodies were left to the local councils and would be determined in the statute. Hence the practices in different municipalities varied.

The LGFA, in contrast to the subsequently adopted Local Government Organisation Act of 1993, stipulated that ensuring the general employment of local residents was also under the competence of the local government bodies (Section 7(2)(5) of LGFA). A similar duty fell to the local soviets under the previous legislation¹³⁵ and can be seen as a remnant or legacy of the previous system.

¹³⁴ The Estonian acronym for this was IME (*Isemajandav Eesti*), which means ‘miracle’ in Estonian.

¹³⁵ See Section 26 of the Act on the City and City Raion Soviet of the Estonian SSR as of 1987 (*Eesti Nõukogude Sotsialistliku Vabariigi seadus Eesti NSV linna ja linnarajooni rahvasaadikute nõukogu kohta*).

Mäeltsemees (2013) has pointed out that the following aspects only appeared in the LGFA of 1989 and not in the Local Government Organisation Act of 1993:

- Two-tier local government;
- Residents would also exercise local government directly through referenda;
- Adoption of rural municipality, city and county acts;
- Four local government bodies – council, government, mayor, audit committee;
- In the primary-level local government units, the chairman of the council was also the mayor;
- The secondary-level local government council had the right to suspend the decisions of the primary-level local authorities if these decisions were not in line with the law;
- The council would be considered unable to act and would be re-elected if it failed to achieve a quorum at least three times within a two-month period.

The two-tier local government and the fact that the chairman of the local council was also the mayor can be linked to the context at that time and are elaborated in Sections 6.3.1 and 6.4.2 of the current dissertation. A local referendum was also provided for in the Local Government Organisation Act of 1993, although the latter did not refer to direct democracy explicitly. The provision on direct democracy via referenda was not described in detail in the LGFA nor in other legal acts and, according to Olle (2002, p. 162), there is no information to the effect that any local referendum took place between 1989 and 1993.

Local government associations were probably the first institutions in the Republic of Estonia to be restored based on legal continuity (Mäeltsemees, 2013). The possibility for the restoration of the associations was stipulated in the LGFA of 1989. The Association of Estonian Cities was restored in May 1990 and the Association of Municipalities of Estonia in September 1990.¹³⁶ These institutions would be an interesting topic for further research from a path dependence and legacy explanations perspective, especially as they were restored legally based on interwar associations.

Local government in the Constitution

Similarly to the interwar constitutions, the Constitution of 1992 contained a section on local government. The chairman of the administrative reform expert committee noted that the local government part of the Constitution of 1938 was also apt and appropriate for the 1990s (Eesti Vabariigi

¹³⁶ Regulation on the Restoration of the Association of Estonian Cities and the Association of Municipalities of Estonia of 1990 (*Eesti NSV Valitsuse määrus Eesti Linnade Liidu ja Eesti Maaomavalitsuste Liidu tegevuse taastamise kohta*).

Põhiseadusliku Assamblee VII toimkond, 1991, October 5, p. 11) and some members of the working group proposed reinstating this part of the Constitution of 1938 (Eesti Vabariigi Põhiseadusliku Assamblee VII toimkond, 1991, October 11). Representatives of the European Council and German Constitutional Court also supported the approach that the local government section in the Constitution should be short and straightforward (Eesti Vabariigi Põhiseadusliku Assamblee III, IV ja VII toimkond, 1991, October 28).

The most debated issue in the Constitutional Assembly concerning local government was the number of tiers. Based on the stenograph of the Constitutional Assembly (CCA, 1997), the proposal on which the Assembly based its discussions foresaw a two-tier local government. Clear grounds for this were not given. However, one of the authors recognised (see CCA, 1997, p. 139) that society was divided over the issue, with some preferring a one-tier local government system and others leaning towards a two-tier approach. By way of a compromise, the powers of the second tier had been reduced in the proposal.

Initially, support for a two-tier local government prevailed in the Assembly's working groups, with the formation of the second level based on delegation (i.e. not directly elected) (CCA, 1997, pp. 145–146). Supporters of the one-tier approach mainly took the Finnish system as an example, as this was the one they were most familiar with (CCA, 1997, pp. 212–213). Due to the importance of the vertical power structure and the wish to maintain flexibility, some members proposed that the question of tiers should not be settled in the Constitution, but in special acts (e.g. CCA, 1997, pp. 213–214, 339–340, 345). Mayors of the rural municipalities preferred a one-tier system, while county government or raion executive committee members supported the two-tier system (CCA, 1997, p. 342).

Some members of the Assembly proposed that certain issues (e.g. healthcare) could be dealt with by rural municipality associations, which would eliminate the need for the county administration (CCA, 1997, pp. 215–216). Many arguments in favour of the one-tier system were related to a wish to re-establish strong rural municipalities, which was often related to nationhood and symbolised the 'true units of self-government' (CCA, 1997, p. 348). However, it was also seen that the 'introduction of second tier means continuation of the raion power in the self-governing system. This is a pure Soviet element', which implied maintaining the artificial structure created during the Soviet period (CCA, 1997, pp. 215, 341). The interest lay in de-institutionalising¹³⁷ the raion administration. In the end, the Assembly decided not to prescribe the number of local government tiers in the Constitution.

¹³⁷ De-institutionalisation 'implies that existing institutional borders, identities, rules, and practices; descriptions, explanations, and justifications, and resources and powers are becoming more contested and possibly discontinued' (Olsen, 2009, p. 10).

By the beginning of 1992, there was still no consensus on what the local government subjects should be. There were three main options (CCA, 1997, p. 766): (1) not to set out the self-government subjects in the Constitution; (2) to set out only those on which there was a consensus; or (3) to use the text from the Constitution of 1938. The second option was put to the vote, with the possibility of other units being established in a special law if required, in order to allow the local government system to develop naturally. The Constitution was duly adopted on 28 June 1992.

To this end, determining the tiers in the Constitution was influenced by at least two historical lessons or experiences – the positive memory of the strong rural municipality during the interwar period, and the negative experience of the raion as a second tier and an artificial creation.

An interesting parallel between the Constitution of 1934 and that of 1992 is that in both cases it is possible to interpret the provision on local government units in two ways. According to one interpretation, the Constitution set out a one-tier local government. This formed the basis for abolishing the county level as a local self-governing tier and replacing the two-tier system with a single-tier alternative in 1934. Based on the other interpretation, legislators could still establish a two-tier local government by means of special acts. Claims have again been made that the Constitution of 1992 essentially established a one-tier local government system (e.g. Kenapea, 1996), despite the fact that the Constitution still provided the leeway for establishing a two-tier local government by enacting special laws (see Madise, et al., 2012, p. 867), as did the Constitution of 1934.

Local governments are rural municipalities and cities. Other local governments may be formed on the basis of and pursuant to a procedure provided by the law. (Constitution of 1992, Section 155)

The State exercises governance at the local level through city, town and rural municipality self-governments, if no special authorities have been established in the legislation. (Constitution of 1934, Section 34)

Another aspect worthy of note concerns the duration of the mandate of local councils. Although a mandate of four years was proposed, several people who were active at the local government level supported a shorter mandate at the Assembly meeting. Being elected was seen as a bonus or a reward for those working in the council as non-professionals in addition to their daily job, and more frequent elections were seen as a way to ensure that members of the council were active enough (CCA, 1997, pp. 676–677). The Constitution of 1992 shortened the mandate of local councils from five to three years. However, the very first amendment to the Constitution was made in 2003, and

with it the duration of the council mandate was set at four years.¹³⁸ The initiators justified the change by arguing that (a) parliament was elected for four years and hence the council's mandate should be the same, and (b) society had become more stable and decisions more long-term-oriented, and hence the local government bodies should become more permanent.

Local Government Organisation Act of 1993

The Local Government Organisation Act of 1993 (hereinafter LGOA) was adopted based on the Constitution of 1992 and anchored the principle of a one-tier local government in Estonian legislation. But prior to that, the one-tier system was formulated in the decision of 12 May 1993.¹³⁹ The LGOA, adopted in June 1993, repealed the LGFA of 1989 and the Decree on Senior Officials. While according to the LGFA there were four local government bodies, the LGOA set out only two – the council and the government. In practice not much changed, however, because the audit committee was a mandatory committee of the council, and the mayor was part of the city or rural municipality government.

The draft LGOA was developed based on the Rural Municipality Act of 1937 and the City Act of 1938, the principles of the European Charter of Local Self-Government, and the respective legal acts of other countries, particularly those of Finland and Sweden (see Kohaliku omavalitsuse korralduse seaduse töörühm, 1993, March 29). The working group that drafted the act did not follow the legislation of the late 1930s strictly, because the legislation on local government at that time was too state-focused and highly detailed (Kohaliku omavalitsuse korralduse seaduse töörühm, 1993, March 29). The overregulation might have jeopardised the development of the local government (Kohaliku omavalitsuse korralduse seaduse töörühm, 1993, March 1). In addition, in the later stage of drafting, and based on the feedback from the expert committee, a decision was made not to present the competencies of the local municipalities in a highly detailed manner, but rather to follow the principle that “everything which is not forbidden is allowed” (Kohaliku omavalitsuse korralduse seaduse töörühm, 1993, March 29).

¹³⁸ As of January 2018, the Constitution of 1992 has been amended five times. Of these amendments, two concerned local government: in 2003 when the term of the local councils was changed, and in 2016 when the voting age for local elections was lowered from 18 to 16 years.

¹³⁹ Parliament Decision of 1993: ‘Drafting of legal acts regarding local government’ (*Riigikogu otsus ‘Kohaliku omavalitsust käsitlevate seaduste väljatöötamine’*). The decision contained three main points: (1) when formulating local government legislation, parliament considers that local government units comprise only cities and rural municipalities; (2) at the county level, a county assembly will be established as a delegated representative body; and (3) national administration at the county level will be exercised through county governments.

The two main principles that the bill was based on were (Kohaliku omavalitsuse korralduse seaduse tööühm, 1993, March 1):

- A single-tier city and rural municipality government;
- A county is an institution of state administration in the area, with a county governor as a state representative.

One reason for this arrangement was the need to implement the land and ownership reform. As already mentioned, the LGOA of 1993 separated the post of mayor and the chair of the council both in cities and in rural municipalities. The LGOA is still in force and has been amended at least 84 times.

6.3 DECENTRALISATION

Local authorities had no real autonomy during the Soviet period and therefore decentralisation was inevitable in order to recreate local government as such. The county level (i.e. the former raion level) played an important role during the early years of decentralisation, partly because the raion soviet had a considerable role in the administrative system.

6.3.1 THE ISSUE OF THE COUNTY LEVEL

From the 1990s until today, the county level has constantly been searching for its role or place in the general administrative system. It is necessary to differentiate between the county government (*maavalitsus*) and the local self-governance element at the county level. Self-government at the county or regional level has been in the form of second-tier local self-government (1989–1993), mandatory delegated self-government (*maakogu*; 1993–1994), and voluntary delegated self-government in the form of the county's local government unit associations (since the end of 1994) (Mäeltsemees, 2009).

When it comes to the county government, the changes can be summarised as shown in Table 6.1.

Table 6.1 County governance patterns and the main legal act

Years	Pattern of county governance (Sootla & Laanes, 2015)	Legal act governing county government
1989–1993	Dual pattern with strong elements of a fused system	LGFA of 1989
1993–1999	Strong prefect in charge of generalist office	1993–1996 – County Administration Act;
2000–2017	Deconcentrated unit of a Ministry	1996–2017 – Government of the Republic Act

Since 1989, the formal pattern of county governance has been a dual one, with strong elements of a fused system (Sootla & Laanes, 2015). This fused

pattern, where county government had both state and local functions, was an iterim model. During the period from 1989 to 1994, the county government was regarded as a substitute of sorts for central government and municipalities in compensating for their temporary deficiencies (Sootla & Laanes, 2015, p. 206). The development of the county government was also influenced by the fact that, during the Soviet time, a lot of power was concentrated in the raion/county, which duly had to be redistributed.

In the initial principles of the LGFA of 1989 (Kohaliku omavalitsuse seadusandluse töögrupp, 1989), it was foreseen that a council of leaders of the primary level units could also be established as an advisory body in parallel with the elected county council. The chairman of the county council was going to be the county governor, elected by the county council and endorsed by parliament, accountable both to the council (for the execution of the council's decisions) and to parliament (for the execution of state policy in the county). In the final Act, the posts of county governor and chairman of the council were still separate, and the residents of the county elected the county council.

During the process of drafting the Constitution of 1992, the question of who should elect or appoint the county governor also came under discussion. As one member of the Constitutional Assembly pointed out (CCA, 1997, p. 787), there was a fear that if the county governor was appointed by the President at the Government of the Republic's proposal, the possibility to create second-level self-government might be eliminated. The option that the Government of the Republic itself would appoint the county governor was also seen as too dangerous by experts, and hence it was an argument for stipulating in the Constitution that the president would appoint the county governor. One way to overcome the strict determination of tiers was to add that the president would also hear the opinion of the respective county's local governments and gain their approval. The county governors at the time were strongly against the idea that the county level would represent only state interests (CCA, 1997, p. 788). In the end, only cities, towns, and rural municipalities were listed as local government units in the Constitution, leaving the county without constitutional protection.

A two-tier local government system in Estonia has always (both during the interwar period and in the 1990s) resulted in antagonism (Moll, 1998, p. 23) between the central and local authorities at the county level. The question of tiers was something that several members of the Constitutional Assembly wanted to leave to parliament to decide as they themselves deemed that they did not have sufficient competence in 1991/92. Even in May 1993, parliament was discussing the relative merits of the one-tier and two-tier systems. In addition, some members of parliament (see E. Spriit in Riigikogu Verbatim Record, 1993, May 12) still raised the question of whether it would be possible to postpone decision-making with regard to the county level. Some arguments were similar to the discussions during the interwar period ['there is a need for a tier between rural municipality and state' (Riigikogu Verbatim Record, 1993, May 12)], and it was even recommended that the legislation of 1937/38 should

be used as a model.¹⁴⁰ On the other hand, it was complicated to distribute functions between the county and primary levels, especially if the county council were to be directly elected, to meet the actual local self-government definition. A solution came in the form of the county assembly (*maakogu*), which existed for a short period of time between 1993 and 1994.

The introduction of a single-tier local government in 1993 can be seen as 'a victory of the new political elites' (Sootla & Laanes, 2015, p. 208). According to Kettunen and Kungla (2005, p. 362), at least three factors account for the abolishment of the two-tier system: (1) 'the strengthened local leaders perceived regional government as competing units, the powers of which should be kept at a minimum', (2) 'there was a general perception among the politicians that Estonia is too small a country for an entrenched regional level government', and (3) the increased proportion of Russian minorities in the population compared to the pre-Soviet Union period, which represented 'considerable potential for the emergence of regionalist demands'. Sootla et al. (forthcoming) have pointed out that although the preparation of the LGOA of 1993 involved 'open but time-consuming' discussion over the need for a second tier self-government, the process 'was interrupted by the leading coalition – Pro Patria – in the Estonian Parliament' by using the majoritarian method and by abolishing the second tier of local self-government with the decision of 12 May 1993; this action 'was largely inspired by short-term interests' to win local elections. The coalition had maintained stronger positions at the primary level, while the opposition had maintained stronger positions at the county level.

The County Administration Act of 1993 was a relevant piece of legislation both for local government reform and for state administration reform in general. The bill of the County Administration Act was submitted to parliament a few hours before the LGOA of 1993 was adopted (Riigikogu Verbatim Record, 1993, June 9), and hence the County Administration Act had to be adapted to the LGOA, in that the latter reduced the available alternatives for the design of county administration. What this demonstrates is that timing and the order of events matter when it comes to the development of institutions. County governments were to be analogous to the ministries and were to determine their own structure (Riigikogu Verbatim Record, 1993, June 9). As the county governor was to be a state official, he was appointed by the Government of the Republic, but in order to ensure that the nominee was also acceptable to the local municipalities, the candidate had to be approved by the county assembly (*maakogu*). The purely political appointment or removal from office of county governors was to be avoided with the mandatory approval by the assembly (see Riigikogu Verbatim Record, 1993, June 9). The

¹⁴⁰ For the county level, an option was also considered that was somewhat similar to the system under the County Act of 1938, whereby there would be a body composed of a representative from the primary-level local government units and a county governor, with the county government as the state authority representatives.

main task of the county government was to implement national policies, while also taking regional specificities into consideration.

The gradual decline of the county level started after the reform of 1993 and resulted in the reorganisation of a rather autonomous county administration (in the mid-1990s) into a deconcentrated unit of the Ministry of the Interior in 2004 (Sootla, Selg, Lääne, & Kattai, forthcoming), where the 'county administration was subordinated administratively to the unit of local government at the Ministry of the Interior' (Sootla & Kattai, 2010, p. 584). The cancellation of county governors' attendance at the Cabinet sessions in 1999 'could be considered a symbolic turning point in the transformation of county governor as the balancing and mediating actor between local and central government into the mere administrative official of a ministerial unit' (Sootla & Laanes, 2015, p. 209).

In 2001 a strategy was presented for the administrative reform of local government. It proposed that the county governor would retain a supervisory role and administrative tasks in the county would be transferred to the local government associations. According to Sootla and Lääne (2012, p. 304), this would have resulted in an even stronger local government system in the second tier. Instead, the tasks were transferred to the state authorities.

By 2003, 'the county governments had lost the majority of their administrative tasks and many county governors entered politics' (Sootla & Laanes, 2015, p. 210). In 2003, the Minister of Regional Affairs, Jaan Õunapuu,¹⁴¹ presented a regional administration reform concept whereby the county assembly (*maakogu*) had a central position. The assembly would have been a representative body, with a chairman elected from and by the assembly. The members of the assembly would have been elected from among the members of the local councils (i.e. members of the city and rural municipality councils), and the number of representatives per local council would have been based on the number of residents in the respective municipality. This document tried to bring into use a 'county governor's office' where the county governor, elected by the county assembly, would have been an executive body (together with its office) of the county assembly. The change would have implied the drafting and adoption of a County Act. National tasks would have been executed by the state's service centres. The reform remained on paper, however, and was not implemented due to disagreements among the coalition partners.

In spring 2004, a different change was implemented in that the Government of the Republic Act was amended and the county governors' position weakened further. It became possible to dismiss a county governor in the event of problems concerning cooperation between the governor and central government. Kungla (2010, p. 178) claims that 'county governors have been viewed as small or minor "rulers" who obstruct the efforts of ministers to ensure the smooth implementation of policies within their own territories'.

¹⁴¹ Before becoming the Minister of Regional Affairs, Õunapuu was a county governor for a decade.

Since autumn 2015, the county governments have been under the Ministry of Finance, instead of the Ministry of the Interior. In January 2017, the government decided to abolish the county governments as of 1 January 2018. This decision is related to the implementation of administrative-territorial reform, which resulted in a significant decrease in the number of local municipalities.

6.3.2 THE PROCESS OF GRANTING SELF-GOVERNING STATUS TO LOCAL GOVERNMENT UNITS

Estonia chose to establish the local government units gradually, based on the local authorities' ability to develop and present socio-economic development plans and statutes. While the councils of counties and independent cities started their operations on 1 January 1990, the municipalities at the primary level (cities, towns, and rural municipalities) continued as local soviets until they had presented the required documents – a statute and a development plan. One aim of the development plan was to map the 'population, social and technical infrastructure, finances, natural resources, and so forth' (Mäeltsemees, 2000, p. 241). As the municipalities did not have their own financial resources at that time, the development plan was more akin to a vision (personal interview, 21 September 2010). Municipalities sometimes used each other's development plan as an example. One interviewee claimed (personal interview, 21 September 2010) that he had witnessed several cases where the plan he had drafted was used, and sometimes the name of the municipality had not even been changed. One reason for this might have been that computer literacy was limited and computers had technical problems (e.g. work was not saved properly or was lost). Drafting the development plan might have also increased local activism (personal interview, 7 February 2011). As local soviets could consult specialists in the raion soviet/county government when they required certain data or advice regarding the development plan, the plans presented by the local soviets to the county government were usually approved by the latter (personal interview, 7 February 2011).

The first primary-level local government units where self-governing status was re-established with the decrees of the Presidium of the Supreme Council of 25 September 1990 were the city of Kuressaare and the rural municipality of Muhu (as of 1 October 1990), with the last ones becoming local self-governments in 1993, after the local elections in October that year. The process took several years (see Table 6.2).

Table 6.2 *Number of local government units to which self-governing status was granted*

Year	1990	1991	1992	1993
Number of units	19	135	93	6

During the period from 1990 to 1993, there were municipalities with two different legal statuses at the primary level of local government, with some having self-governing status and others not. This created problems in organising the work at the local level because, according to the Decree of the Presidium of the Estonian SSR Supreme Council of 6 December 1989 on the Creation of an Administrative System Based on Local Government, the respective secondary-level local government bodies fulfilled the functions and managed the resources of the primary-level rural municipality, town or city until the self-governing status of the latter was established (Almann, 1995, p. 449). In addition to the fact that the mayors or chairmen of different local soviets and local governments had different powers, they also had to operate in different legal environments.

The transfer of functions from county level to cities and rural municipalities did not always go smoothly. In the feedback to the Constitutional Assembly in November 1991 the Association Establishing Rural Municipalities in the County of Võru pointed out that the 'county's support for the primary-level self-governments in the takeover of the functions is scarce and the county is looking for reasons not to transfer those functions' (Võrumaa Valdu Asutav Liit, 1991, November 4, p. 126) to the primary level.

The process of granting self-governing status was clearly separated from the possible merging and splitting of the municipalities. At the end of 1992 it was assumed that the questions regarding the amalgamations and splitting of the municipalities would be regulated in the LGOA of 1993 (Riigikogu Verbatim Record, 1992, December 9).

The borders of the rural municipalities were not altered at the beginning of the 1990s. A wish was expressed to change the borders based on: (1) the end of the 1930s, (2) some other year of independence, or (3) the period of large, successful holdings (Mäeltsemees, 2009). The territorial division changes that took place between 1989 and 1993 were mainly directed towards the creation of new administrative units and restoring the historical names of counties and rural municipalities (Uuet, 2002, p. 235). For example, Kernu village soviet was merged with Nissi village soviet in 1960, and Kaiu village soviet was merged with Juuru village soviet in 1972 (Uuet, 2002, pp. 180, 199). In both cases, locals wanted to restore the initial units at the beginning of the 1990s (Riigikogu Verbatim Record, 1992, December 9), indicating that after 20–30 years the separate local identities had prevailed. Kernu rural municipality was duly separated from Nissi, and Kaiu from Juuru in 1993. This was a parliamentary decision in light of the fact that there was still no legislation regulating the establishment of administrative units in 1993. The explanatory memorandum on the draft decision stated that there were about ten administrative units at the time 'where the economic and social composition of the territories merged into village soviets is not monolithic and justified' (Riigikantselei, 1992). The government emphasised the municipalities' right to self-determination, and a head of department at the Government Office stated in parliament that local self-government is 'like a plant for which the

conditions for growth have to be created, and which should not be bent in one direction or another' (Riigikogu Verbatim Record, 1993, August 9). Drechsler claimed in 2013 that one of the great successes of Estonian policy during the last two decades had actually been that mandatory amalgamations of small rural municipalities for the purpose of non-existent efficiency had been avoided (2013, p. 162).

6.3.3 ADMINISTRATIVE TERRITORIAL UNITS – PARTIAL SURVIVORS OF THE SOVIET ERA

When it comes to the types of administrative units, there is a clear link with the interwar period, because village soviets and raions were replaced with rural municipalities and counties. In the 1990s, all of the county names¹⁴² of the interwar administrative system were re-established where possible (Sepp & Veemaa, 2010) and some had also kept their initial name throughout the Soviet era as well (see Appendix A). The county borders were influenced by Soviet rule (see Figure 6.1), not so much due to the fact that there were 39 raions, but to the fact that at the end of the Soviet period there were 15 raions instead of 11 counties. This leads to the assumption that as the regional or county-level administrative-territorial division has been broadly the same between the 1990s and 2017 as it was during the interwar period, it should enforce path dependence.

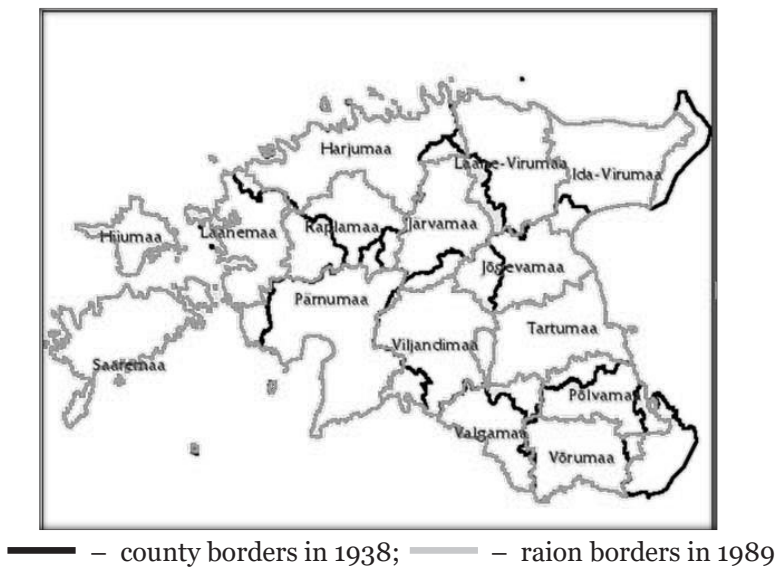


Figure 6.1 Borders of counties (1938) and raions (1989)
Source: National Archives of Estonia, with author's modifications.

¹⁴² These county names were already in use before the interwar independence years.

The number of rural municipalities decreased during the interwar period from almost 380 to 248, mainly as a result of the extensive territorial reform. In the Soviet period, the rural municipalities were replaced in 1950 with 641 village soviets and, over time, the village soviets were reduced to 189 by 1986 (see Table 6.3). The creation of village soviets was a natural part of the Soviet system and it ‘broke traditional administrative links’ (Paavle, 2009a, p. 143). At the beginning of the 1990s, rural municipalities were re-established largely based on the village soviets. Some of the municipalities reinstated their historical names and some, which had been amalgamated during the 1960s and 1970s, were split at the request of the local people in 1993 in order to restore the pre-Soviet units.

Table 6.3 *Administrative units in selected years during 1922–2018*

	1922	1939	1950	1965	1986	1992	2000	2018
Cities	13	33	32	32	33	35	42	15
Towns	19	-	22	22	24	27	-	-
Rural municipalities	378	248	-	-	-	79	205	64
Village soviets	-	-	641	238	189	114	-	-
Counties	11	11	-	-	-	15	15	-
Raions	-	-	39	15	15	-	-	-

In the case of cities, the changes were more limited, and the cities have remained largely as they were also during the Soviet period. At the same time, at the end of the 1930s and during the Soviet period, the cities were divided into different categories with different subordination. The question of whether the capital city should have a different status than other cities is raised every now and then,¹⁴³ sometimes with reference to the City Act of 1938. A possible explanation for why the capital city has not acquired a different status compared to other cities might be that whenever the issue has been raised, the mayor of Tallinn and the Prime Minister have been from different political parties. Conferring a special status on a city where almost one-third of the country’s population resides, requires a politically weighted decision, and hence the political context has not been conducive to singling out the capital city for special treatment.

The possibility to harmonise the powers of cities and rural municipalities was created with the Constitution of 1934 and the abolishment of county self-government, but the rural municipalities were not granted the same status as

¹⁴³ In 1994 and 1998, Tallinn City Council submitted a proposal to the Government of the Republic to adopt a law on the capital city or on the status of Tallinn (Lõhmus & Tõnisson, 2006, p. 54). In 2002, the draft legislation (Bill No. 1190) was handled in parliament, according to which supervision over Tallinn would have passed from the county governor to the branch ministries, and Tallinn City Council would have been able to delegate some decision-making powers to executive bodies, but parliament did not support the amendment.

the cities. Today, both are regulated by the same legislation and function under the same rules, namely differentiation between cities of different sizes, as well as differentiation between cities and rural municipalities has been abolished.

Territorial reform and the amalgamation of municipal units due to their small size have been on the agenda since the mid-1990s. The amalgamation or change has been resisted both by some political parties and by local municipalities. The Reform Party was a veto player for years, but in the end tabled the reform plan in 2016, which initiated the biggest administrative-territorial change within the last quarter of a century.¹⁴⁴ In the case of amalgamation, the opportunity for a critical juncture was missed at the beginning of the 1990s because several municipalities wanted to amalgamate, either to restore their interwar identity or for economic reasons, but no legislative framework existed to implement the amalgamations. At the beginning of the 1990s, democracy was the principal aim and therefore amalgamations were not on the agenda. This missed opportunity, in terms of voluntary amalgamations, can be seen as a variable supporting path dependence and 'stickiness' in the local government system.

6.3.4 ATTEMPTS AT TERRITORIAL REFORM

Since 1997, every Minister of Regional Affairs has tabled his own plan for restructuring local and regional governance¹⁴⁵ (Mäeltsemees, Lõhmus, & Ratask, 2013, p. 74). The main argument for territorial reform has been that some municipalities are so small that they do not have the administrative capacity to provide all of the necessary services to the required standard. Attempts at administrative-territorial reform have been influenced, at least to some extent, by the Soviet and interwar legacies, both of which have hindered reform. Experiences relating to the top-down reforms and experiments of the Soviet period, on the one hand, and local identity on the other, which in some cases dates back to the interwar period, have also had an effect. Some cities, which were also cities during the interwar period, started to reuse their

¹⁴⁴ After the municipal elections of October 2017 there are 79 municipalities (cities and rural municipalities).

¹⁴⁵ In 1998 – Avaliku halduse arendamise alused/*The fundamentals of public administration development*; 2001 – Haldusreform kohaliku omavalitsuse valdkonnas/*Administrative reform in local municipalities*; 2003 – Regionaalhalduse reformi kontseptsioon/*Concept Paper on the Reform of Regional Administration*; 2007 – Regionaaltasandi halduskorralduse korraldamise lähtealused/*Guiding principles for organising the administrative arrangement at the regional level*; 2009 – Haldusterritoriaalse korralduse reformi seaduse eelnõu/ *The Draft Act on the Reform of Administrative-Territorial Organisation* (Mäeltsemees, Lõhmus, & Ratask, 2013, p. 74); 2013 – Omavalitsuskorralduse reformi seaduse eelnõu/*The Draft Act on the Reform of Self-government*.

insignia from the 1930s,¹⁴⁶ emphasising the continuity from the pre-Soviet time.

The Territory of Estonia Administrative Division Act was finally adopted in 1995 and governed, among other things, the alteration of the administrative-territorial organisation. From 2002, the government started to encourage voluntary amalgamations of municipalities, instead of 'centrally initiated involuntary amalgamations' (Kettunen & Kungla, 2005, p. 363). For that purpose, the Promotion of Local Government Merger Act was adopted in 2004. The principles of the provision of financial support for the amalgamation had already been approved at the Cabinet meeting in March 1999 (see Vabariigi Valitsus, 1999, March 17). Between the years 1996 and 2015, 30 voluntary amalgamations duly took place (Rahandusministeerium, 2016b).

A reference to the administrative-territorial reform can be found in the government's coalition agreement of 1999, for example, which aimed to bring decision-making closer to the people by increasing the role of local government and strengthening the municipalities. One of the measures for achieving this was to implement an administrative-territorial reform, based on systematic analysis and considering the individuality of each municipality. In 2001, draft legislation was also prepared, but the idea did not receive sufficient political support. Moreover, in 2009 and 2013, different Ministers of Regional Affairs tabled a reform plan accompanied by draft legislation, but again there was insufficient support from other coalition partners, especially from the Reform Party.

In 2009, the Auditor General (Oviir, 2009) sent a letter concerning the administrative reform, or rather the lack thereof, to the Members of Parliament and of the Government, as well as to the leaders of the constitutional institutions. In the letter, he criticised the voluntary amalgamations because, in some cases, the practice had resulted in strange new units that did not follow the logic of the population centres, and he also found that the state-led reforms had been stymied due to parties' political interests.¹⁴⁷ Mäeltsemees (2016, p. 83) points out that 'the administrative-territorial reform has so far failed largely due to the fact that the reform has been a purpose in itself', particularly as little has been done to define the responsibilities of the units and the financing principles related to them.

The Cabinet that assumed office in spring 2014, still led by the Reform Party, decided to abolish the post of Minister of Regional Affairs and to merge it with the post of Minister of Internal Affairs instead. The idea of abolishing

¹⁴⁶ For example, in 1992, the cities of Jõhvi, Keila, and Narva adopted the coat of arms that was approved in 1937/38; in 1994, the city of Rakvere adopted the coat of arms approved in 1937; in 1995, the city of Jõgeva started to officially reuse the coat of arms approved by the Minister of the Interior in 1938; and in 2000, the city of Elva started to use the coat of arms approved by the local council in 1938.

¹⁴⁷ 'As soon as parties try to use the fig leaf of administrative reform to retain or strengthen their political position or to achieve a political position, it perishes.' (Oviir, 2009)

the former had been mentioned by the Reform Party as early as 2011, however. The turning point, or critical juncture, for the territorial reform occurred when the Cabinet established the post of Minister of Public Administration in 2015 (under the Ministry of Finance), which was filled by the Reform Party – one of the main veto players in the previous reform attempts. Minister Arto Aas took office in April 2015, and in June 2016 parliament adopted the Administrative Reform Act.

As the size of the municipality was the only criterion¹⁴⁸ for amalgamation, it is questionable whether the reform was able to increase local democracy and decrease variations in service provision because the deadline for voluntary amalgamations, or more precisely signing the merger agreements, was January 2017. By mid-2017, there were not even any legal proposals for how the functions or financing of local government would change, although this legislation had been promised. Whether the administrative capacity of Estonian local government units is mainly determined by the size of the municipality or not would be a topic for another long discussion. The local government capability index (Geomedia, 2014) also lists three municipalities with 4,000–7,000 inhabitants among the top 10 municipalities, while the Statistical Office of Estonia (Servinski & Meres, 2015) has proposed that the (geographical) location of the municipality has a greater impact on the administrative capacity than its size has.

Coming back to the Administrative Reform Act, the Minister of Public Administration hoped that parliament would not introduce major changes into the Administrative Reform Bill (Riigikogu põhiseaduskomisjon, 2016, p. 3). This – coupled with the urgency of the reform, resistance to the previous reform proposals, and the avoidance of questions on local government functions and the revenue basis – is an indication that amalgamation was at least partly seen as a means of gaining better results for the Reform Party at the subsequent local elections.

As a result of the vote of no-confidence for Prime Minister Taavi Rõivas in November 2016, the Reform Party left the government. The posts of Prime Minister and Minister of Public Administration went to the Centre Party, which had criticised the Administrative Reform Act of 2016 in parliament. They decided to proceed with the reform nonetheless as it was too late to reverse it.

Possible alternatives. In 2015, after a decade of discussion on the local government reform, the two main options were (semi-)mandatory amalgamation or keeping things the way they were. One way to ensure that small municipalities would be able to provide all the required services at an

¹⁴⁸ Exceptions under Section 9(3) of the Administrative Reform Act include islands as one municipality; if the residents' criterion was fulfilled based on the data of 1 January 2016, but not of 1 January 2017; if, after the amalgamation, the area of the municipality exceeds 900 km² and has at least 3,500 residents as of 1 January 2017; and if, after the amalgamation of at least four municipalities, the new municipality has at least 3,500 residents as of 1 January 2017.

adequate level would entail cooperation between municipalities, but this has not been facilitated by the state, however. While the state and local government partnership was discussed in the Riigikogu in 2010 as being a question of national relevance, the Minister of Regional Affairs was doubtful whether the provision of services via cooperation agreements between municipalities or/and associations would be feasible (Riigikogu Verbatim Record, 2010, September 23). The local government right to form unions and joint agencies with other local governments is stipulated in §159 of the Constitution. The OECD noted in its report (2011, p. 64) that ‘Culturally within the Estonian public administration there is currently a tendency towards competitiveness and “doing it alone” (i.e., not to depend on others in order to realise goals and pool means)’.

Even under mandatory amalgamation, at least two options might have been possible: (1) to have a single criterion (e.g. municipality size), or (2) to have local government units demonstrate how they ensure the provision of an adequate level of services without amalgamation, if they do not opt for a merger. The latter might have been more time-consuming, considering that as a prerequisite there should have been at first the legal proposal on the revised tasks of local governments and financing.

Critics of the Administrative Reform Act. During the legislative procedure on the Administrative Reform Act, the single criterion issue was touched upon by the National Audit Office, the Chancellor of Justice, and the Association of Municipalities of Estonia.¹⁴⁹ The latter was the most critical. The Association stated that there was no clear connection between the size and administrative capacity of a municipality, and therefore the reform based on the single criterion might not result in improved quality and availability of services. Based on the analysis, and given that a municipality of 3,500 people is sometimes sufficient to provide services independently, both the Chancellor of Justice and the Association raised the question of why this number had not been used in the bill. In addition, the Association proposed using the criterion of 3,500 and amending the legislation to allow increased cooperation between the municipalities in order to achieve the aims of the reform less painfully, and with less of a negative impact on the local people than in the case of the 5,000 criterion. The Association of Estonian Cities emphasised¹⁵⁰ that proposals on strengthening the local government revenue basis should be a part of the bill. Despite all efforts, the veto players were not powerful enough to modify the conditions of the reform.

¹⁴⁹ Respectively, the letter of 13.01.2016 No 6-2/16/36-2 from the National Audit Office to the Minister of Public Administration; the letter of 20.01.2016 No 18-2/160088/1600320 from the Chancellor of Justice to the Minister of Public Administration; and the letter of 13.01.2016 No 10-1/222-1 from the Association of Municipalities of Estonia to the Minister of Public Administration.

¹⁵⁰ The letter of 14.01.2016 No 5-1/245-1 (*Haldusreformi seaduse eelnõu koostööstamine*) from the Association of Estonian Cities to the Minister of Public Administration.

More than twenty local councils petitioned the Supreme Court to declare either the Administrative Reform Act as a whole, or a part thereof, invalid.¹⁵¹ Some of the arguments were that mandatory amalgamation violated the principle of democracy and legal clarity, the government had not given due consideration to alternatives (e.g. inter-municipal cooperation), the deadline set was too short, and merger support was not paid on equal grounds. The Court found that only the last point was not in line with the Constitution.¹⁵²

The administrative reform, led by the Minister of Public Administration, marked an attempt to break the path dependency related to administrative-territorial division, just after many cities had celebrated their 90th anniversary in 2016.

6.3.5 SOME REMARKS ON FINANCIAL AUTONOMY

During the Soviet time, the village soviets had very limited financial powers. The local government's independent budget and the local council's exclusive competence in the adoption of the budget were stated in the LGFA of 1989. A week after the adoption of the latter, the Budget Act of the ESSR was also adopted, which included three chapters: general provisions, state budget, and local budgets. The Budget Act listed the local government revenues and expenditure. In December 1989 the Taxation Act was adopted, which stipulated, in addition to the state budget revenues, the local government budget revenues derived from taxes and levies. Section 5 of the Act foresaw that local government units could also levy taxes not listed in the Act, and the Government of the Republic could set the ceiling on tax rates.

Based on the Taxation Act, in October 1991 the government adopted a regulation on establishing local taxes, specifying the procedures and terms and conditions for local taxation. The financial autonomy of local government is dealt with in Section 157 of the Constitution of 1992, which states:

A local government shall have an independent budget for which the bases and procedure for drafting shall be provided by law. A local government has the right, on the basis of law, to levy and collect taxes, and to impose duties.

The legislation in this respect was also replaced in 1993: in June the Rural Municipality and City Budget Act was adopted, followed in August by the Rural Municipality and City Budgets and State Budget Correlation Act.

In the mid-1990s, the perceived financial autonomy of the municipalities was greater than in 2010, for example (personal interview, 21 September 2010). This perception is also supported by data: in 1996, the municipalities were able to decide on about 30% of the budget revenues (local taxes, fees,

¹⁵¹ Cases 3-4-1-3-16, 3-4-1-5-16, 3-4-1-6-16, 3-4-1-7-16, 3-4-1-8-16, and 3-4-1-9-16.

¹⁵² Judgement in case 3-4-1-3-16, 20 December 2016.

rental income, sale of property, etc.), while in 2008 this figure was 11%, indicating that state intervention and centralisation had increased (personal interview, 21 September 2010; Moll, 2011). Figure 6.2 illustrates local government and state expenditure as a percentage of GDP, showing that while these expenditures had increased/decreased at a similar pace during the interwar period (see Figure 4.1), since the beginning of the 2000s, expenditure at the state level has increased faster than that at the local government level. An interviewee emphasised that while the responsibility for a task has been given to a municipality, the amount and allocation of resources is decided by the state – ‘if local governments are allowed to decide very little, it means the adoption of the centralised local government model from Pääts’ time’ (personal interview, 21 September 2010).

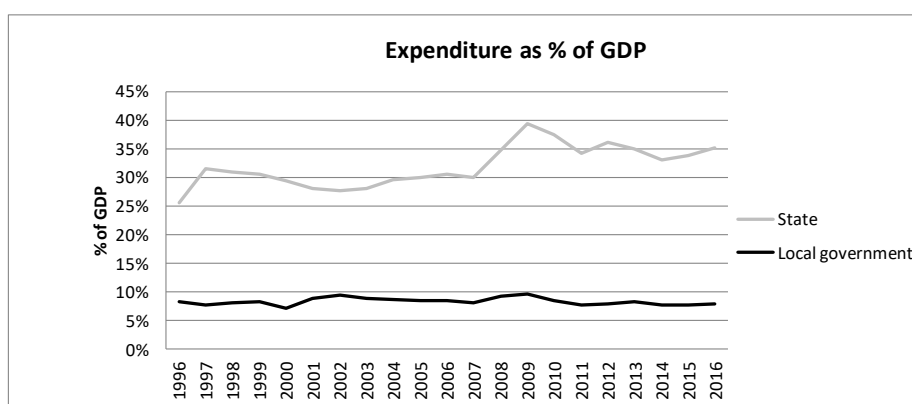


Figure 6.2 Local government and state expenditure as a percentage of GDP, 1996–2016
Source: Author’s calculations, based on the Ministry of Finance data (www.fin.ee).

In 1993, the President refused to promulgate the Taxation Act that the Parliament had adopted in August 1993, and referred it to the Supreme Court. In its judgement,¹⁵³ the Constitutional Review Chamber of the Court declared the Taxation Act to be unconstitutional. Several provisions were deemed unconstitutional, including the one which foresaw that the Ministry of Finance and the Minister of Finance could establish the nature of local taxes and approve them. The Court concluded that ‘the Ministry of Finance has been given the opportunity to directly interfere with the imposition and establishment of the procedure and conditions for collecting local taxes’ with the Taxation Act.

The Court’s position was considered in the Local Taxes Act adopted in 1994. The Local Taxes Act listed nine different local taxes,¹⁵⁴ inspired by the pre-

¹⁵³ Constitutional judgment III-4/A-4.

¹⁵⁴ Head tax, local income tax, sales tax, boat tax, advertisement tax, road and street closure tax, motor vehicle tax, animal tax, and entertainment tax. Ten different taxes were listed in the bill, with local

1940 legislation (e.g. additional income tax, maintenance tax) (Riigikogu Verbatim Record, 1994, June 27). Local income tax was abolished in 2000, and head tax¹⁵⁵ in 2002. In 2002, a parking charge was added as a local tax. During the period from 1996 to 2008, only 110 municipalities collected some local tax, the most used being advertisement tax (Moll, 2009, p. 117). Hence, the role of local taxes in local revenue is marginal.

During the interwar period, local taxes constituted an important revenue source for local municipalities. Since the 1990s, however, they have diminished in both number and importance: while in 1994 the Local Taxes Act listed nine types of local taxes, in 2017 it listed just six. By January 2017, only 30% of municipalities had established local tax(es). The sales tax was abolished as of 2012 in line with the amendment of 2010 because the capital city, Tallinn, had only started to collect sales tax from June 2010. The Government of the Republic justified the abolishment of sales tax with the need to protect the simplicity and clarity of the business environment, reasoning that the establishment of sales tax in Tallinn also had an impact on prices outside the capital (Riigikogu Verbatim Record, 2010, June 15). A parliamentary debate demonstrated the government's attempt to influence Tallinn's financial discipline. The introduction of local taxes by local municipalities has been hindered in part due to the high administrative costs of tax collection, which sometimes exceed the revenue derived from the taxes, making regulatory taxes the only ones worth collecting for the most part. Here the question remains whether the tradition of local taxes was broken due to the lack of financial autonomy of the local soviets, decisions made during the decentralisation process, or some other factors. This would need further investigation, which would be too detailed to fit within the scope of the current dissertation.

6.4 LOCAL DEMOCRACY AND LOCAL GOVERNMENT BODIES

Similarly to the interwar period, the Local Government Council Election Act has been amended (or replaced) between every election, while the scope of the amendments has varied. Although the official local government bodies are the council and the government, the current section will focus, in addition to the

government tax listed instead of head tax (*isikumaks*). Parliament found that there were grounds for replacing the local government tax with head tax to avoid confusion related to the object of taxation. The maintenance tax was only in the bill and not in the adopted legislation (Riigikogu Verbatim Record, 1994, September 21).

¹⁵⁵ Head tax, which was widely debated during the interwar period, was levied after re-independence by just one municipality in 1995–1996. Nissi rural municipality had budgeted 30,000 kroons in terms of revenue, but managed to collect only 4,300 kroons (Moll, 2009).

council elections, on the mayor because of the important role played by this post during the 1990s.

6.4.1 LOCAL ELECTIONS AND DEBATES ON DUAL MANDATE AND ELECTORAL ALLIANCES

The Local Soviets Election Act of 1989 was established to cover the transitional elections, and hence a new act was drafted for the elections of 1993. One of the authors of the Constitution of 1992, Jüri Adams, noted in October 1991 that the election mechanism in the local government election acts of 1939 was 'exceptionally felicitous' and the same acts could be put into force almost without changes (CCA, 1997, pp. 139–140). Notwithstanding this optimism, a totally new and different act was drafted and adopted.

During the proceedings for the bill on the Local Government Council Election Act of 1993, in February that same year an expert committee also recommended considering a limited vote method as an option in addition to the proportional methods, as it had been used in the interwar period and deserved discussing in the light of the legislative continuity. The same expert group found that a majoritarian system could also be an option in small municipalities. The most debated issue in the *Riigikogu* again revolved around who should have the right to vote, namely should this be strictly limited to Estonian citizens or not. A summary of the main elements of the Local Government Council Election Act and its amendments is presented in Appendix C.

The Local Government Council Election Act of 1993 was revised in 1996. The aim was to eliminate inaccuracies and contradictions in the text and to bring it in line with the respective act on the Parliament election.¹⁵⁶ Under the 1993 rules, in addition to political parties, non-profit associations and organisations could also nominate candidates as long as their statute included the right to nominate candidates for the local elections. Furthermore, individual candidates could form a list. In 1996, the term 'electoral alliances' (*valimisliit*) was stipulated. The electoral alliances issue was not debated in parliament, where attention was mainly focused on the technical aspects, namely ensuring that people who had the right to vote could also effectively put this right into practice (*Riigikogu Verbatim Record*, 1996, March 11). In the Act of 1996, a simple quota was explicitly stated, which is applied before applying the modified d'Hondt method. The simple quota method had already been experimented with during the parliamentary elections in 1992. In the local elections, the simple quota was a way of reducing the possibility that candidates with zero votes would be able to get onto a local council. In the corresponding debate in parliament, an MP opposed the simple quota because

¹⁵⁶ The basic principles of the Parliament election act were decided in autumn 1991, and at that time the Legal Affairs Committee did not study the system of the interwar period, but instead focused on the practices of other European countries (*Riigikogu*, 2011, pp. 39–40).

it emphasised the election of individuals instead of political parties, and hence he felt that it signified a move away from Western Europe and towards autocracy (see Riigikogu Verbatim Record, 1996, April 17). The President refused to proclaim the Election Act because it stipulated that the candidates had to have completed basic, secondary, or higher education in Estonian, or passed a relevant language exam.¹⁵⁷ Another MP stated that the time was ripe to end the consequences of the occupation at the language level because 'if it is passed up at the moment, we not only lose years, but also call into question the work of preceding years' (Riigikogu Verbatim Record, 1996, May 14). Parliament wanted to establish ex-ante control over language proficiency. The language requirement was, as several MPs claimed, a political issue, not a legal one. Instead, by way of a compromise, a reference to the Language Act was included. The language requirement was abolished in 2002, however, when a new Local Government Council Election Act was adopted. Although the bill stipulated that the candidate should have sufficient Estonian language proficiency to participate in the council work, in the parliament the Section with the language requirements was omitted from the adopted Act.

The regime change also brought about changes in terms of the background of the people involved in local administration/government. During the Soviet era, the majority of the chairs of village soviets were female, whereas after the 1989 elections males were most prevalent again (Russak, 2009, p. 33). While in 1948 every third candidate was female, in the local soviets in 1975 about half were women (Truuväli, 1986b, p. 170), which is considerably higher than in the independence years (e.g. in the post-communist period about 30–40% of candidates were female). A summary of the selected quantitative indicators is presented in Table 6.4. It shows a sharp decrease in the use of citizen electoral alliances (or independent lists) and an increase in the political parties' lists at local elections since the 2002 elections. The change is mainly due to an attempt to ban the participation of independent lists at the local elections.

When it comes to the amendments related to the local election legislation after 1993, there are at least two widely debated issues – whether a person could belong to the national parliament and a local council simultaneously (i.e. dual mandate or *cumul des mandats*), and whether only party lists would be allowed at local elections, or non-party lists as well.

¹⁵⁷ Decision No 715 of the President of the Republic, 7 May 1996.

Table 6.4 *Selected indicators of local elections 1993–2013*

	1993	1996	1999	2002	2005	2009	2013
Voter turnout (%)	52.6	52.5	49.8	52.5	47.4	60.6	58.0
Lists	844	773	768	874	912	912	923
- of political parties	106 (12.6%)	122 (15.8%)	180 (23.4%)	632 (72.3%)	726 (79.6%)	588 (64.5%)	631 (68.4%)
- of election coalitions of parties	-	30 (3.9%)	18 (2.4%)	-	-	-	-
- of citizen electoral alliances	738 (87.4%)	621 (80.3%)	570 (74.2%)	242 (27.7%)	186 (20.4%)	324 (35.5%)	292 (31.6%)
Independent candidates as a % of all candidates	9.0	3.7	1.2	0.8	0.5	1.0	0.7
Candidates per mandate	2.5	3.2	3.8	4.6	4.7	5.0	5.0
Candidates by gender M/F (%)	71.7/ 28.3	67.0/ 33.0	64.4/ 35.6	62.3/ 37.7	60.7/ 39.3	61.3/ 46.7	60.0/ 40.0
Elected candidates by gender M/F (%)	76.1/ 23.9	73.3/ 26.6	71.7/ 28.3	71.6/ 28.4	70.4/ 29.6	70.4/ 29.6	68.9/ 31.1

Source: Based on vvk.ee

Party lists and non-party lists

In Central and East European countries, ‘local lists established themselves in the early 1990s as important actors on the local level, especially due to a lack of party organisation in the process of democratic consolidation’ (Reiser & Holtmann, 2008, p. 7). During the 2000s ‘local lists emerged also in countries which had been formerly fully party-politicised on the local level’, mainly due to ‘a general decline of trust in established parties and politicians’ (Reiser & Holtmann, 2008, p. 7).

The 1990s marked the heyday of citizen electoral alliances (CEAs) or (independent) local lists¹⁵⁸ in Estonia, but these have been ‘slowly pushed out by an increasingly cartelised party system’ (Pettai, Toomla, & Joakit, 2008, p. 85). CEAs were first provided for in the Local Government Council Election Act of 1996, although individual candidates also had the right to form a common list in 1993. Table 6.5 indicates that there was a sharp decline in CEA candidates running in the 2002 and 2005 elections, which can be explained by the coalition parties’ attempts to ban CEAs in those years.

¹⁵⁸ According to Holtmann (2008, p. 11), the independent local lists ‘are focussed on a *local jurisdiction*’ and limited to ‘*one single local jurisdiction*’.

Table 6.5 *Local electoral candidates by political formation, % of total*

Political formation	1993	1996	1999	2002	2005	2009	2013
Political party	14.4	16.6	26.7	72.4	74.7	59.2	63.5
Party alliance	-	6.2	4.0	-	-	-	-
CEAs	76.6	73.5	68.1	26.8	24.9	39.7	35.8
Individual candidates	9.0	3.7	1.2	0.8	0.4	1	0.7
Total N	8 971	11 127	12 801	15 203	14 656	15 322	14 784

Source: Years 1993–2005: Pettai, Toomla, & Joakit, 2008, p. 89; years 2009 and 2013: vvk.ee.

‘The strength of CEAs in the early 1990s was partly by default. As a newly democratised country, Estonia still had an incipient party system’, and the main parties were parliamentary parties (Pettai, Toomla, & Joakit, 2008, pp. 90–91). Pettai et al. (2008, p. 91) note that the first sign that CEAs were a stopgap measure was that while they were allowed in the parliamentary elections in 1992, in the 1995 elections the civic associations were not permitted to run. At the local level the process was slower. In addition, in many municipalities in 1993 and 1996 political parties formed CEAs ‘to take advantage of their positive image’ (Pettai, Toomla, & Joakit, 2008, p. 92). In 1998, the *Riigikogu* amended the *Riigikogu* Election Act by abandoning CEAs in the national elections. According to the explanatory memorandum on the bill, the aim of the amendment was to abolish the prerogative of CEAs compared to the political parties; it also emphasised that the political parties carry political accountability, but in the case of CEAs the accountability was blurred. The debates in the *Riigikogu* also touched upon questions of whether it harmed democracy, and whether it was in compliance with the Constitution.

When it comes to the Political Parties Act of 1994, we can conclude that the *Riigikogu* wanted to avoid the situation whereby some small parties existed that were only active at the county level and which were not represented in the *Riigikogu*. Thus, although the Government of the Republic proposed a threshold in the bill for a political party registration with a minimum of 200 members, in the *Riigikogu* this was increased to 1,000 members. While during the communist period it was common for politics to be *de jure* conducted in citizens’ associations as well, in 1993/94 the goal was to limit this right to political parties only. Introducing the nuance of local government in the Act was not an option for the *Riigikogu*’s constitutional law committee because this nuance would have confounded the logic of the Political Parties Act (*Riigikogu* Verbatim Record, 1994, February 16).

Another event that caused some consternation among political parties occurred in 2001 when the *Riigikogu* failed to elect the President of the

Republic and the vote was put in the hands of the electoral college, which comprises MPs and representatives from all local governments. As the latter also included non-party members, the result of the vote was hard to predict, and the person elected as president did not have the support of many centre-right parties. The ‘parties needed to get a better handle over the local government appointments’ to the electoral college (Pettai, Toomla, & Joakit, 2008, p. 95).¹⁵⁹

In March 2002, the *Riigikogu* adopted a new Local Government Council Election Act, which permitted a candidate to run only if he or she was in a party’s list or was running as an independent candidate. In May 2002, the Chancellor of Justice submitted a petition to the Supreme Court to declare certain provisions of the Act unconstitutional.¹⁶⁰ The Constitutional Review Chamber of the Supreme Court (CRC) was ‘of the opinion that the prohibition of citizens’ election coalitions in the present legal and social context is not constitutional, considering this to constitute a disproportional restriction of the right to vote and run as a candidate’, and that such restrictions ‘would prejudice the foundations of local government through the fact that the representative body will not be capable of becoming sufficiently representative’.¹⁶¹ At the time, the Political Parties Act required a party to have at least 1,000 members to be able to register as a party. This number exceeded the number of citizens in many municipalities and therefore it was not possible to register as a local party. The only option would have been to run in a national party’s list or as an independent.

As a result of the judgement, in July 2002 the *Riigikogu* amended the Local Government Council Election Act and also allowed independent local lists at the local elections, albeit with the restriction that the CEAs’ right to present the lists of candidates would expire on 1 January 2005, namely ten months before the next elections. The Chancellor of Justice took this restriction to the Supreme Court once again. This time it was not the CRC, but the Supreme Court *en banc* that declared the provision abolishing the CEAs invalid as of January 2005. The Court also noted that:

Pursuant to the Constitution, a local government is based on the idea of a community the duty of which is to resolve the problems of the community and manage the life thereof. If the possibilities to represent communal interests are made dependent on the decisions of political parties active on the national level, the representation of local interest may be jeopardised. This in turn may be in conflict with the principle of autonomy of local governments. In the case of a conflict of state and local interests a member of a local government council must have a possibility to resolve local issues independently and in the interests of

¹⁵⁹ In 2016, the electoral college comprised 101 MPs and 234 local government representatives, 107 of whom did not belong to any political party.

¹⁶⁰ For the official account of the ruling, see Constitutional Judgement 3-4-1-7-02 of 15 July 2002.

¹⁶¹ Constitutional Judgement 3-4-1-7-02.

*his or her community. That is why the electoral system of local elections should guarantee those groups of persons who come from the local community, and who have a common interest in resolving local issues, the possibilities to stand as candidates on an equal footing with those groups, such as political parties, who are also interested in exercising power on the national level.*¹⁶²

In the same judgement were summarised the arguments of the Minister of Justice,¹⁶³ which reflected the wish to better control the decision-making at the local level and align local interests with national interests.

When it comes to the reasoning behind the amendment, the government's main argument was that the non-party lists did not carry permanent political accountability and therefore only party lists and individual candidates should be allowed to participate in the local elections. The government did not see it as a problem that the parties did not have enough members in smaller municipalities because people who were not members could also run in party lists (Riigikogu Verbatim Record, 2002, February 27). The opposition, on the other hand, found that specific local problems exist at the local government level, which may be more significant than party programmes. The Pro Patria Union's representative compared the requirement whereby a candidate had to be a member of a political party in order to run in local elections to the CPSU times, when 'people's possibility for a career and decision-making depended on the ownership of a party membership card' (Riigikogu Verbatim Record, 2004, November, 25).

These two attempts to ban CEAs 'enriched democratic discourse and prompted a deeper societal reflection over the kind of democracy Estonia wanted to create' (Pettai, Toomla, & Joakit, 2008, p. 140). Reference to the interwar period in this discourse was marginal, if present at all.

Dual mandate

One element related to the central-local relations and local elections concerned whether the possibility to be a member of parliament and of a local council simultaneously should be allowed or not, and what impact this had on local democracy. Up until 2005, simultaneous membership of both was permitted. The ban on a dual mandate was adopted in 2002 and came into force in 2005, but was later abolished in 2016.

¹⁶² Judgement 3-4-1-1-05.

¹⁶³ 'The Minister of Justice argues that it is necessary to give only the political parties the right to submit election lists also in order to ensure that there is a connection between a local government and the state power, and to avoid the conflict of local and national interests. The Minister of Justice is of the opinion that there can be only one actual centre of power in the state. The Supreme Court *en banc* does not agree with this opinion of the Minister of Justice, because the realisation of local interests on the local level, even in conflict with the interests of the central power, if necessary, is inherent in the principle of autonomy of local self-governments'. Judgement 3-4-1-1-05.

In 2002, the Local Government Council Election Act was adopted,¹⁶⁴ whereby two provisions were added to the Riigikogu Internal Rules Act. The first stated that when an MP was elected to the local council, his/her mandate as a member of the local council would be suspended, and the second that an MP should not become a member of a local council during his/her MP mandate. An addition to the LGOA stated that the mandate of a member of a local council would be suspended for the duration of his/her mandate as a MP until the termination of his/her mandate as a MP. These provisions were to come into force on 17 October 2005, a day after the next local elections. Runthal (2010, pp. 49, 51) draws attention to the fact that the incompatibility of the mandates was not in the initial draft, but was added during the proceedings and without legal analysis. It should be noted, however, that 'over-parliamentarisation' was evident in Estonia at the beginning of the 1990s as well, for example in the adoption of the Government of the Republic Act (Sarapuu, 2017).

In May 2005, the provisions concerning the incompatibility of mandates were annulled by parliament, by amending the Internal Rules of the Parliament and the LGOA. The President of the Republic only announced the amendment to the LGOA, and sent the amendment to the Internal Rules back to parliament. He concluded in his decision¹⁶⁵ that the adopted act contradicted at least three provisions of the Constitution:

- The principle of local autonomy (§ 154);
- The principle of the separation and balance of powers (§ 4);
- The incompatibility of the post of Member of Parliament with other state offices (§ 63).

The Chancellor of Justice also sent a report to parliament even before the latter had adopted the Act, suggesting that the amendment should not be adopted for reasons similar to those subsequently provided by the president (Chancellor of Justice, 2006, p. 16). The Constitutional Committee of the Parliament presented counterarguments to the Presidential Decision in strict adherence to the letter of the Constitution, but not its spirit, stating that the local council is not a state office.¹⁶⁶

As parliament did not amend the text, in June 2005 the president asked the Supreme Court to declare the Riigikogu Internal Rules Act Amendment Act unconstitutional. The Court duly declared the Act unconstitutional with its judgement,¹⁶⁷ but on different grounds, concluding that the 'Act is in conflict

¹⁶⁴ The act annulled the Local Government Election Act of 1996.

¹⁶⁵ Decision No. 848 of 30 May 2005.

¹⁶⁶ See Riigikogu Verbatim Record of 8 June 2005. In September 2016, a new Chancellor of Justice claimed that simultaneously being a Member of Parliament and a member of a local council is in line with the Constitution because the latter is not a state office (Riigikogu Verbatim Record, 2016, September 20).

¹⁶⁷ Judgement of the Constitutional Review Chamber of the Supreme Court, 3-4-1-11-05, 14 October 2005.

with the requirements of democracy, arising from §10 of the Constitution',¹⁶⁸ because the amendment was made three months before the local elections. Therefore, even though the provision on the incompatibility of the mandates in the LGOA was annulled, it remained valid in the Riigikogu Internal Rules Act.

The Chamber of the Court claimed that 'On the basis of the requirements of democracy, the Chamber cannot accept situations where the ruling political forces significantly amend in their own favour the electoral rules, which are known in advance for several years, and they do so immediately before the elections'.¹⁶⁹ In her Master's thesis, Runthal (2010, p. 51) also reached the conclusion, based on an analysis of parliamentary proceedings documentation, that party interests to succeed in the elections prevailed.

If we refer to the parliamentary stenographs of February 2005 concerning the LGOA amendment (Riigikogu Verbatim Record, 2005, February 9), it is evident that discussions on the dual mandate gained the most attention while the banning of independent lists, included in the same amendment, received only marginal attention. The Constitutional Committee of the Parliament had not discussed the problematic situation whereby an MP cannot be a member of a local council, but can run as a candidate in the local elections. Supporters of the dual mandate cited Finland as an example.

The bill allowing MPs to simultaneously belong to a local council was aired in parliament most recently in 2016. The Estonian Free Party (*Vabaerakond*), among others, opposed the bill, claiming that if MPs were to gain the right to belong to local councils as well, then in order to counterbalance that idea, non-party lists should also be allowed in the parliamentary elections. Supporters of the bill, on the other hand, saw that it would enhance cooperation between the central and local levels (Riigikogu Verbatim Record, 2016, June 7). The initiative for the bill stemmed from the coalition agreement; hence, all coalition parties supported it and all opposition parties voted against it.

In January 2016, the Free Party tabled a bill that would have prevented MPs from running in local elections as 'duck decoys' or 'stalking horses', by stating that as soon as an MP had gained a mandate in the local council, his/her mandate as an MP would have been annulled, and vice versa. According to the Estonian Free Party Fraction (2016), 93 MPs (out of 101) ran in the 2013 local government elections, and of the 60 that were elected, only one accepted a seat in the local council. In addition, 11 ministers were elected.

Different Chancellors of Justice have held differing opinions on the dual mandate issue. It was not clearly stated in the Constitution of 1992 whether the mandates were incompatible or not, and nor has the Supreme Court taken a clear position on the matter. Some said that restricting the mandate would enable more people to participate in politics, particularly seeing as there was no lack of people interested in it in the 2000s, unlike the situation at the beginning of independence (Riigikogu Verbatim Record, 2005, May 3).

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

6.4.2 THE INSTITUTION OF MAYOR¹⁷⁰

The LGFA of 1989 did not determine the functions of the mayor in detail. The Act referred to the rural municipality, county and city acts that would later be adopted to determine the powers of the local government bodies. The (provisional) status of the mayor was described in the Decree on the Status of Local Government Senior Officials (henceforth “Decree on Senior Officials”), which was adopted in January 1990.

The mayors at the primary and secondary level of local government had different responsibilities and functions. The most significant distinction was that the posts of chairman of the council and mayor were unified at the primary level; at the secondary level, these were separate. At the primary level, the mayor had the opportunity to submit proposals and to take part in the decision-making process, but he also had to implement these decisions. The rationale for the unification of the posts of council chairman and mayor at the primary level was the need to concentrate all the powers locally, considering the need to build up the local government units (Kirs, 1989). According to Mäeltsemees, there was also a concern that there might be a lack of suitable candidates in the rural municipalities to fill the post of mayor and chairman of the council separately (Russak, 2009, p. 35). In addition, the chairman of the Council of Ministers of the Estonian SSR also referred in the speech that he gave in the Supreme Council at the first reading of the draft of the LGFA to the specificities of the transition period and the need to ‘effectively confront the economic pressure of some enterprise or agricultural holding’ (Lääne, Mäeltsemees, & Ludvig, 2012, p. 12). Since the interests of the local government and state intersected at the level of county and independent city, a decision was made to apply the principle that a county governor or the mayor of an independent city would not be the chairman or the deputy chairman of the council (Kirs, 1989).

At the primary level, the mayor was elected by the respective council from among its members. It is worth noting that the wording of Section 6 of the LGFA implies that the council elects the chairman, who will also be the mayor, not the other way around. In 1989, when the LGFA was prepared, the direct election of the mayor was proposed, but it was not feasible. The Local Soviets of People’s Deputies Election Act was adopted as early as August 1989 and did not foresee the direct election of the mayor. The LGFA had to be consistent with the rules of the Election Act (Kirs, 1989). Therefore, the option of directly electing the mayor had already been ruled out in August 1989, a path that has been followed ever since.

In an independent city the council appointed the mayor, but, contrary to the primary level, the mayor could not be a member of the council. The Decree on Senior Officials (point 12) specified that the mayor of an independent city

¹⁷⁰ This section is partially based on a conference paper *Historical Comparison of the Role and Powers of the City Mayor in Estonia Between 1918–1940 and Since 1989*, presented in June 2012 at the 22nd IPSA World Congress of Political Science, Madrid, Spain.

is the leader of the city government, but also a state representative in the city. According to the LGFA (Section 12(2)), the mayor had to be approved by the Supreme Council. The approval by the Supreme Council was added to the act due to the particular context. First, it was feared that the role of the local government associations would increase too much, and secondly, that there was a risk that local election would result in a mayor who was not supportive of the Estonian legal order (Lääne, Mäeltsemees, Vare & Kattai, 2017, pp. 97–98). The LGFA (Section 12(1)) set out some of the tasks of the mayor of an independent city, mainly those which involved relations with the central government (e.g. organising the implementation of the national policy and participating in the work of the Government of the Republic with an advisory voting right). The mayor of an independent city was accountable to the city council, as well as to the Supreme Council of the Estonian SSR and the central government, as was the case during the communist period.

The role of the mayor in the establishment of local self-government units

The Decree on Senior Officials (point 25) explicitly stated that the chairman of the local soviet of a primary-level unit, while also heading the executive committee, had to ensure the implementation of certain provisions of the Decree of the Presidium of the Supreme Council, from 6 December 1989, on the Creation of an Administrative System Based on Local Government in the territory of the respective administrative unit. One of the provisions concerned the local soviet's obligation to develop a socio-economic development plan and a statute to gain self-governing status. The conformity of the submitted documents was assessed by an administrative reform expert committee, based on the requirements established by the Presidium of the Supreme Council. The latter granted self-governing status, based on the opinion of an expert committee. Sulev Mäeltsemees (2000, p. 242) has stated that one of the aims of the development plan was to make every local government official contemplate the situation at least in his own area, as well as the further quantitative and qualitative development, and discuss it with his colleagues.

The importance of leadership in administrative reforms cannot be ignored (Toonen, 2007). It is argued that leadership is probably 'of greater significance in unstable situations or where administrative behaviour has not yet become subject to routines compared to what might be defined as stable environments' (Offerdal, Hanšpach, Kowalczyk, & Patočka, 1996, pp. 105–106). It can be claimed that the importance of administrative leadership at the local level in Estonia increased and changed at the beginning of the 1990s since the local governments had more discretionary power than under the Soviet regime. In addition, local government underwent a transformation since 'it was clear what was being left behind, but it was not clear what lay ahead' (Rose, 2009, p. 1), the institution was changing and developing, and a course also had to be charted at the individual municipality level (e.g. in socio-economic

development plans). This also called for leaders at the local level to contribute to the establishment of the new system, to create new routines, and to act in an unstable and changing environment – in other words, to be what Getimis and Hlepas (2006, p. 179) call a strategic or change-oriented mayor.

There are several examples where mayors demonstrated innovative behaviour or ideas. For primary-level municipalities, a major issue involved getting their self-governing status recognised. It was often the mayors themselves who drafted the socio-economic development plan and the statute, and who subsequently presented it to the Supreme Council. There were also cases where researchers in Tallinn or Tartu were asked to draft the development plan (Mäeltsemees, 2000, p. 242), or parts thereof (e.g. historical background, demographical overview) (Lukas, 2007, p. 81).

Not all local governments followed the procedure that was foreseen for gaining the self-governing status. For example, the Jõgeva village soviet became Jõgeva rural municipality by restoring the status of the rural municipality in accordance with the decision of the village council. The chairman of the village council started to investigate the legality of restoring the rural municipality according to the council's decision because the rural municipality had been changed to a village soviet in an illegitimate way. The village soviet found no legal basis for denying the restoration of the rural municipality and, unofficially, the chairman of the Supreme Council simply said "Do it!" in response to the idea. The village council adopted the development plan and took the decision on the status of the rural municipality in September 1992. The documents were also approved the following year, in April 1993, by the Government of the Republic (Lukas, 2007, p. 27).

Another example of local initiative involved amalgamations. As early as November 1990, the councils of people's deputies in two municipal units in the county of Jõgeva approved the amalgamation of a city and a rural municipality, the main argument being an economic one (Põltsamaa linna rahvasaadikute nõukogu, 1990). The municipalities also contacted the Chairman of the Supreme Council, but an obstacle was posed by a lack of legislation that would regulate the amalgamation, and hence it was not implemented. These two municipalities did not sign the amalgamation agreement until the end of 2016. Around the same time, the city of Türi and the Türi village soviet also considered amalgamation (Sokk, 1999, p. 32), and this was implemented much earlier in 2005.

Changes related to the LGOA of 1993

An important change introduced by the LGOA was the separation of the posts of mayor and chair of the council. The LGOA simplified the legal framework with regard to the functions of the mayor since there was only one tier of local government and the Act did not differentiate between the mayors of different administrative units, as the previous legal acts had done.

Based on the LGOA, the election of the mayor, releasing him from office, and any expression of no confidence in the incumbent still fell within the exclusive competence of the council. One alternative that was considered was that the chair of the council would also be the mayor, and the executive body would be managed by a specialist, who would be hired by the council, but this proposal did not garner enough support in parliament, and neither did the direct election of the mayor (Riigikogu Verbatim Record, 1993, May 12). One of the rationales for having the council elect the mayor was that the prime minister is not elected directly. The act foresaw that the mandate of the council member would be suspended if he was appointed mayor. The same principle had been laid down in the LGFA of 1989 for the mayors of independent cities.

The LGOA (Section 50) set out eight main functions or tasks of the mayor:

- organising the work of the rural municipality or city government and preparing their respective sessions;
- representing the local government and rural municipality or city government in accordance with the competence granted by law, the statutes of the rural municipality or city, and the council;
- issuing directives for the organisation of the internal operations of the rural municipality or city government and its administrative agencies;
- signing rural municipality or city regulations and orders, and other government documentation;
- submitting the membership/staff of the rural municipality or city government to the council for confirmation;
- submitting a proposal to the council for the confirmation of the appointment to office of the additional members of the rural municipality or city government, and the release from duties of a member of government;
- presenting candidates for the heads of a municipal enterprise to the city or rural municipality government for confirmation of the appointment to office;
- performing other functions assigned to him or her pursuant to the law and the statutes of the rural municipality or city.

The LGOA was designed to set only a general legal framework for local government and to leave the details of the organisational arrangements (including functions and powers of the mayor) to the council to be determined in the statutes. The aim was to encourage local initiative and to consider the differences between cities and rural municipalities (see Kohaliku omavalitsuse korralduse seaduse töörihm, 1993, March 1). This also allowed the consideration of local conditions, as was the case under the LGFA.

The LGOA stipulated the powers and role of the council in more detail than the LGFA. A total of 26 issues were listed under the exclusive competence of the council. More explicitly, the LGOA mentioned the exclusive competence in submitting requests or giving an opinion concerning the alteration of

municipality boundaries, the formation or liquidation of city or rural municipality districts, and setting the number of council members.

While the councils of independent cities had a separate office servicing them under the legislation of 1989, in 1993 a decision was made to follow the principle that the city government would service the council in order to increase the cooperation between the two (see Kohaliku omavalitsuse korralduse seaduse tööühm, 1993, March 1).

In the preliminary draft of the LGOA, it was foreseen that, in order to enable direct democracy, a general assembly of citizens with voting rights would be allowed to exist on small islands or in small municipalities in parallel with the council. This principle did not find its way into the final act.

Different system, but the same people

One element in Estonian local governments that often remained unchanged compared to the Soviet period was the people. It has been suggested that in Estonia 'the local leaders from yesterday' became the 'political leaders' of the 1990s, especially in the small municipalities (Granqvist, 1993, p. 66). Based on the interviews and documents, it would appear that the people working on the executive committee of a local soviet usually continued working for the rural municipality or city government. For example, in more than half of the independent cities, the first mayor at the beginning of the 1990s had previous experience as the chair of the executive committee of a soviet, or experience in the communist party. In Jõgeva county, after the 1989 elections, the former chairs of the executive committee continued as the chair of the executive committee / mayor in 10 cities and rural municipalities (out of 13). Based on this, it is fair to say that local government reform at the local level at the beginning of the 1990s was often led by people with experience of the Soviet system. The high degree of continuity in personnel, and especially in the case of the first mayors, can also be found in other post-communist countries (see Szokolczai, 1993, pp. 14–15; Offerdal, Hanšpach, Kowalczyk, & Patočka, 1996, p. 115).

In some independent cities, people outside the old system were also considered as mayoral candidates. In Tartu (independent city), for example, the Tartu City Council (Tartu Linnavolikogu, 1989a) decided to advertise the vacancy in a newspaper so that persons interested in the post could contact the members of the council, since the latter had the right to propose mayoral candidates. At the following council meeting three candidates were proposed, with the result that the person who had been the chair of the executive committee up to that point became the mayor (Tartu Linnavolikogu, 1989b).

Mouritzen and Svava claim that 'the longer the mayor remains in office, the more influential the mayor is likely to be' (2002, p. 209). Therefore, it can be assumed that the first mayors had more influence due to their previous post as the chair of an executive committee.

The method of selecting the mayor has remained broadly the same since 1989, in that it falls under the competence of the council. There are no signs in Estonia that the mayor would be directly elected in the near future. In 1993, an expert group proposed using the title 'Local Self-Government Election Act' instead of 'Local Councils Election Act' so as not to exclude the possibility of setting out the direct election of a mayor in the same act, if necessary. In 2002, when local councillors were asked whether they supported the direct election of the mayor, about 40% of respondents strongly opposed it while about 30% were in favour of such a move¹⁷¹ (Sootla & Toots, 2006, p. 240). Low support from councillors vis-à-vis the direct election of the mayor is expected, as Devas and Delay (2006) have indicated that a directly elected executive mayor reduces the powers of council members.

The relations between the executive and the representative

As already indicated, the council had the power to express 'no confidence' in the mayor, and in Tartu and Tallinn at least, this power was exercised. In Tallinn, the council made an attempt to express 'no confidence' in April 1991, which failed; the next attempt was made in February 1992, and the mayor himself resigned on the same day (Mäeltsemees, 2004, pp. 135, 137). In Tartu, based on the minutes of the council meeting of October 3, 1991 (Tartu Linnavolikogu, 1991), it is clear that the council considered exercising its 'no confidence' prerogative mainly as a tool to indicate to the city government that it was not satisfied with the work of the mayor and the city government, and that the relations between the council and the government needed to be specified. According to the council decision adopted at the meeting, the issue of the expression of 'no confidence' was put on the agenda for the meeting in November. As a result, the city government resigned in October, one of the reasons being that the mayor felt that the council did not trust the city government.

The LGFA of 1989 did not determine the council-government relations (Ginter, 1991, p. 338). Ginter claims that during that period many councils predominantly held the view that the city government was subordinated to the council, and the composition of the government could easily be changed. Hence, mayors were often selected quickly and the government lacked the support of the council's majority. The easiest and quickest way was to appoint a previous leader as a mayor (Ginter, 1991, p. 338). In the Decree on the Senior Officials of 1990, it was initially stated that the expression of 'no confidence' required an affirmative vote of three-quarters of the council's elected members. In April 1991, this was amended and replaced with two-thirds. The amendment affected the balance of power between the council and the mayor

¹⁷¹ The survey included both rural municipalities and cities, but as opposition to direct election of the mayor was higher in the bigger municipalities, it can be assumed that opposition to direct election is stronger among city councillors than among rural municipality councillors.

by increasing the power of the council, as in the former case it would have been more difficult to initiate 'no confidence'. Under the LGFA of 1993, the initiation of 'no confidence' required at least one-quarter of the council members' support, and an affirmative vote required the majority of the votes of the council membership.

At the secondary level, the mayor had dual subordination (a potential communist legacy) – to the council (limited) and to the central government. This ran the risk that a mayor would choose according to his own preference whether to follow the position of the council or that of the central government (Ginter, 1991, p. 338). It can be argued that at the primary level, the mayor had more influence over the council than at the secondary level. First, since the mayor was also the chair of the council, he was aware of all (or at least the majority) of the discussions at the council sessions and could take part in them. At the secondary level, the mayor did not attend all of the council sessions. Secondly, while at the primary level the mayor was still a part of the council, at the secondary level he was distanced from the council by the fact that he was also a representative of the central government.

Both of the ex-mayors of small cities who were interviewed for this study claimed that unifying the posts of the chairman of the council and the mayor at that time was probably justified, or at least did not create problems. On the other hand, an ex-mayor of an independent city argued that unifying the post of the mayor and chair of the council would probably have worked there as well, as the mayor (and city government) had to implement the decisions of the council. The example of the expression of 'no confidence' in Tartu showed that as the situation was new for the council and the city government, and as both were undergoing change, there was a lack of coordination and trust between these two bodies, the risk of which at that time could have been decreased by having them connected through the mayor. Having one leader in a municipality who has an overview of the discussions and developments of the executive and representative body of the local government can mitigate the conflicts between government and council, but also increase the risk of the mayor exerting too much power.

Above all, the LGOA of 1993 changed the statutory position of the mayor. It separated the posts of mayor and chair of the council, and since then the statutory position of the mayor has remained mainly unchanged. The local government system in Estonia has been described as a cabinet model¹⁷² (Lõhmus & Tõnisson, 2006, p. 50; Sootla & Grau, 2005), whereby there is a 'strong balance between the roles of mayor and council' (Sootla & Grau, 2005, p. 284). Based on a survey conducted in 2002/2003 among top officials of local governments and council members in Estonia, the impact of mayors on local government decisions was perceived to be stronger than other institutional actors (Sootla & Grau, 2005, p. 287). For example, since 1989 the

¹⁷² Sootla and Grau (2005) use the committee model, the mayoral model, and the cabinet model to describe the institutional balance in local government.

councils have appointed the mayors, but a council cannot appoint the members of the city government individually. The council either approves the latter as proposed by the mayor, or not as the case may be.

Drawing parallels between the models proposed by Mouritzen and Svvara (2002), in 1993 local government started to move towards the strong mayor form and the committee-leader form, with increasing probability that the elected mayor would have the support of the majority of the council, and be anchored through political parties or election coalitions.

6.5 DISCUSSION AND CONCLUSION

This chapter demonstrated that at least two critical junctures at the macro level can be identified in the 1990s: first, in 1989 when the first competitive local elections were held after half a century, and the Local Government Fundamentals Act was adopted; and second, in 1992/93 when the local government was set out in the Constitution and special laws. During the critical juncture in 1993, there was a move away from a temporary or transitional local government system towards a more permanent one. When analysing individual elements of local government, smaller-scale critical junctures can also be detected.

The Local Government Fundamentals Act of 1989 contained several elements from the Soviet period, which were later abolished in the Local Government Organisation Act of 1993. Before the Fundamentals Act of 1989 came into force, the executive committee members, including the chair of the executive committee (the equivalent of the mayor), were elected from among the members of the soviet. The executive committee was accountable to both the local soviet and the executive body at the higher level, namely to the district or council of ministers, thereby creating a situation of dual subordination. The former was partly implemented at the primary level from 1990–1993, and the latter in the independent cities (dual subordination of the mayor).

The Estonian authorities chose to restore local government at the lowest level (i.e. cities and rural municipalities) in a gradual way. This decision had a crucial impact on the development of the county-level governance because right from the outset there was a tendency towards weak county government. The local election set for 10 December 1989 was a decisive incentive to adopt the Local Government Fundamentals Act. While continuing with the old legislation coupled with amendments was an option in the interwar period, in the 1990s it would not have been possible to restore local democracy without a total overhaul of the system. At the macro level, the abrupt change and discontinuity in 1989 was indicative of breakdown and replacement.

It is not so much the legal framework that was transferred from the interwar period to the 1990s, but the idea of local government. The aim was to restore the local government as an institution, with its autonomy and

democracy. This chimes with what Carl Becker (1955, pp. 338–339) has observed:

The kind of history that has most influence upon the life of the community and the course of events is the history that common men carry around in their heads. It won't do to say that history has no influence upon the course of events because people refuse to read history books. Whether the general run of people read history books or not, they inevitably picture the past in some fashion or other, and this picture, however little it corresponds to the real past, helps to determine their ideas about politics and society. This is especially true in times of excitement, in critical times, in time of war above all. It is precisely in such times that they form (with the efficient help of official propaganda!) an idealized picture of the past, born of their emotions and desires working on fragmentary scraps of knowledge gathered, or rather flowing in upon them, from every conceivable source, reliable or not matters nothing.

This idealised picture of the past might have accelerated the process of the re-establishment of local government in the 1990s, and ostensibly be part of the usable democratic past. However, it has to be noted that during the interwar period in Estonia, there were mainly lawyers at the state level in politics,¹⁷³ but at the end of the 1980s and beginning of the 1990s the leaders were mainly historians (Tamm, 2016). Tamm (2016, p. 165) has claimed that in transitional Estonia, history became a ‘science of legitimation’, ‘helping to gain, justify and preserve power in a new social situation’. This is true for the state as such and for the administrative-territorial organisation, but when it comes to details on the local government structure, the picture is somewhat blurred.

In partially addressing the first research question about the institutions or institutional aspects demonstrating the strongest path dependence, within the post-communist period we can highlight at least the administrative-territorial system, county government and citizen electoral alliances. Local taxes and local finances have a clear potential to be examples of strong path dependence, but this would require a separate study.

Based on Chapters 4 and 5, and on this chapter in particular, the most interesting institutions from both the theoretical and empirical point of view seem to be county government/administration, the election/appointment of a mayor, and election rules. The main reasons for this are as follows:

- County government has been relatively important in local-central relations in terms of power during both the interwar and post-

¹⁷³ According to Leps (2009, p. 144), ‘it is no exaggeration to say that the prewar [i.e. interwar] Republic of Estonia was governed by lawyers, but the Soviet occupation in the years 1940–41 literally destroyed lawyer-statesmen’.

communist periods. Over time, it has lost relevance in both cases and been abolished. From a theoretical angle, it is an institution whose functions and stability strongly rely on changes in state institutions and primary-level local government institutions.

- The mayor has probably been the most visible person in local government for the local people, and even during the communist period people often referred to the chair of the executive committee as the mayor. At the same time, Estonia has not followed the example of many other countries (e.g. Poland, Lithuania) in having a directly elected mayor.
- Election rules are procedural institutions. The principal elements of these rules were amended prior to almost every election during the interwar years. In the post-communist period, the rules have been more stable. During the design phase (at the beginning of the 1990s), the focus was on who should have the right to vote, but subsequently the most debated issues have been questions of dual mandate and citizen electoral alliances. This raises the question of the possible role of agency in historical institutionalism.¹⁷⁴

It is challenging to determine interwar legacies for local government in the post-communist period, especially institutional ones, with any degree of confidence. The legislation and institutions of the interwar period, and especially of the 1930s, were more a source of inspiration than legacies carried over to the post-communist period. An attempt to use the legacies explanation for selected institutions will be presented in the following chapter (Chapter 7).

¹⁷⁴ Peters, Pierre, and King (2005) have provided critique on historical insitutionalism and argue that, as an approach, it cannot adequately explain change ‘without including some dynamic conception of agency, and including a greater role for political conflict’ (p. 1277).

7 HISTORY RHYMES

In the year 1991, we decisively set out on a road leading into the past; from then on, everything happened under the label of restoration, of restitution. Parishes, schools, monuments, street names, property, money. The new was only allowed to be the old regained; the Republic of Estonia became a truly Proustian project: a journey into time regained.

Õnnepalu (2011)¹⁷⁵

This chapter emphasises the comparative aspect of the study. It does so by discussing three selected institutions¹⁷⁶ with a focus on path dependency and interwar legacies (research questions 1 and 2). Furthermore, it addresses research question 3 on central-local relations in different periods.

When it comes to the structure of the chapter, it firstly explores the question of the constantly weakening position of county government (Section 7.1). In the case of the mayor, it is interesting to note that the direct election of the mayor has not been practised in Estonia (Section 7.2), and in debates on local election rules the legacy of incomplete nation-building has been phased out, while attention has shifted to electoral alliances (Section 7.3). In addition, as the majority of formal changes to the local government system are decided at the state level, the analysis of selected institutions sheds light upon central-local relations, which are examined in Section 7.4.

Based on Chapters 4 to 6, it can tentatively be concluded that the development of local government and central-local relations in Estonia is more reflective of the idea that history rhymes rather than that it repeats itself. Similarly, Young (1997, p. 47) has refrained from the deterministic approach that history repeats itself in his PhD thesis on local government in Russia, advocating instead that ‘history may not repeat itself, but it certainly rhymes’.

The focus on potential recurrence and legacies is justified by the fact that in the case of Estonia, we cannot ignore the importance of legal continuity at the beginning of the 1990s or, as Pettai (2004; 2007) has pointed out, of legal restorationism.¹⁷⁷ The latter was used not only for re-independence, but was

¹⁷⁵ Translation of the citation is based on Tamm (2016).

¹⁷⁶ The rationale for selecting these three institutions (county government, mayor, and election rules) was elaborated in Section 6.5.

¹⁷⁷ One of the proponents of legal restorationism, Tunne Kelam, stated in 1989: ‘The only rope, which we can hold onto as we go through this dangerous swamp is our historical continuity, the continuity of the legal, independent Estonian state. This rope must be secured to poles, which have been driven deep into a moral foundation. If we let go of this rope or if we forget about its existence, if we give in to weakness and sit down on a stump in the swamp in order to rest and taste the berries growing there, then we are lost.... All of this depends on us, our choices, our purity, our courage and determination,

extended to citizenship, property rights, borders and popular culture (Pettai, 2007). The principle of legal continuity was anchored in the Constitution of 1992. As demonstrated in the previous chapter, the local government legislation of the interwar period was largely considered to be inappropriate for the 1990s. While the main critical juncture occurred in 1989–1990, the critical juncture period for the legal framework lasted at least until 1993 because an essentially unlimited number of solutions were discussed in parliament, including whether the mayor and council chairman posts would be unified or not, or whether the post of mayor would be filled by a specialist or an elected person (Riigikogu Verbatim Record, 1993, May 12). Moreover, the potential enduring legacies (without which we cannot talk about a critical juncture) were, in many cases, only produced in 1993. Politicians and leaders were not personal bearers of the interwar legacies because the first decade of Soviet rule eliminated that possibility. Instead, the political actors functioned as enablers of the interwar legacy (Sarapuu, 2017). Hence their understanding of the interwar local government may also have been influenced by their own ‘present needs and purposes. The past is a kind of screen upon which we project our vision of the future’¹⁷⁸ (Becker, 1955, p. 337).

Before concluding on specific institutions, there are at least three aspects relevant to this context that need highlighting. First, at the beginning of the interwar period, social transformation was crucial, while in the post-communist period, the people in power during the Soviet period continued for the most part. Until 1917, those in power in the cities were mainly Baltic Germans because they also owned the majority of real estate and companies. In their list at the elections, some Estonians also gained a seat on the local council (Vihalem, 1963, pp. 11–12), and so Estonians were not entirely excluded, although they were often in the minority.¹⁷⁹ Parming (1975) does not hesitate to claim that an Estonian Social Revolution took place at the beginning of the interwar independence, in that the Constituent Assembly promulgated the land reform in 1919. The reform transformed society because the manorial land holdings were nationalised. ‘Since the estates had been the backbone of Baltic German power in Estonia, the Land Reform was instrumental in transferring political, economic, social and cultural power to

because the correct choice will guarantee purity and moral force. And moral force will guarantee courage. And the courage of a proper conviction will guarantee a continuity of struggle and the achievement of one’s goals’ (cited in Pettai, 2007).

¹⁷⁸ According to Becker (1955, p. 336) ‘our imagined picture of the actual [historical] event is always determined by two things: (1) by the actual event itself insofar as we can know something about it; and (2) by our own present purposes, desires, prepossessions, and prejudices, all of which enter into the process of knowing it’.

¹⁷⁹ Vihalem (1963) puts forward an example that while in 1878 in Tartu there were about 30,000 inhabitants, only 1,081 persons had the right to vote. In rural municipalities the situation was different and the possibility of participating was better. Konstantin Päts, who had a crucial role in the interwar period, started his political career in Tallinn city council in 1904.

the natives' and 'led to the formation of a sizeable ethnic Estonian propertied rural class' (Parming, 1975, p. 25). In the 1990s, the land and ownership reform had the purpose of remedying the injustice caused by the Soviet occupation in 1940, when all land was nationalised. The Land Reform also had, in addition to its economic aspect (e.g. privatisation created a land market as a component of the market economy), a political one – the weakening of political opposition. Even the Land Reform can to a certain extent be seen as an attempt to continue from where the Republic ended in 1940.

Second, while in the interwar period Estonians inherited functioning structures from 1917 and earlier, the land reform of 1919 was crucial in removing Baltic Germans from the decision-making position. In addition, as a result of the Communists' armed coup attempt in December 1924, 'the Communist Party of Estonia was destroyed as an effective political entity' (Parming, 1975, p. 13). Furthermore, the coup attempt resulted in 'temporary political stability' with which 'Estonia was able to resolve many domestic economic difficulties', and also contributed to an 'increasing rightward shift of Estonian domestic politics' (Parming, 1975, p. 13). People started to realise the value of nationhood and independence.

In the 1990s, on the other hand, it was not so much the people in the administration that had to be replaced¹⁸⁰ but, rather, there was a need to create appropriate structures for a democratic state. Those from the 1920s could not be re-installed in their initial form because the temporal context and antecedent conditions in the 1990s were different. At the same time, the institutional framework for local government at the end of the 1930s was enacted under an authoritarian regime, but it contained several aspects already proposed or discussed in the 1920s, and therefore the framework cannot be automatically labelled entirely unsuitable under democracy.

The third point to highlight is that during the second decade of independence both periods witnessed a global economic depression or crisis. In the interwar period the first 'occurred during the first half of the 1920s [1923–1924] and culminated in the attempted Communist coup, and the second, a decade later, during the great depression, which culminated in the collapse of the democratic order' (Parming, 1975, p. 17).

Due to the economic depression at the beginning of the 1930s and at the end of the 2000s, the state had to cut expenditure, which also affected local government. On account of different central-local relations, the consequences for local government were different during these two periods. In the interwar period, the revenues of the local authorities depended more on local taxes than during the post-communist period, and hence the state was able to exert less of a direct influence. On the other hand, during the post-communist period, the share of local taxes was marginal at best, and hence the state could

¹⁸⁰ In terms of people, a common problem during the transition in Central and Eastern Europe 'was the shortage of well-qualified, motivated civil servants' in the public administration (Randma-Liiv & Drechsler, 2017).

intervene more, which it did by decreasing the income tax share transferred to local governments and by making their loan-taking subject to permission from the Ministry of Finance, thereby restricting their fiscal autonomy (Savi & Randma-Liiv, 2015). What was similar for both periods was the state's reluctance to reinstall the pre-crisis situation. In the 1930s, the state had increased taxes due to the crisis, but in the post-crisis period the state tax rates were not decreased substantially (Valge, 2000). During the post-communist period, the local government revenue base had still not been restored to the pre-crisis level by 2017.

7.1 COUNTY ADMINISTRATION

County administration and the question of the one-tier vs. two-tier local government system are strongly interrelated. If we consider both the interwar period and the time since re-independence, county government enjoyed the most capacity and legitimacy during the first years of independence, 'when counties were subsidiary to the weak central and municipal government and ensured an extensive set of public services' (Sootla & Laanes, 2015, p. 212). At other times, the county government was more of an extended arm of central government than a representative of local or regional interests and a balancing power. An analysis of different patterns of county-level governance, based on the dual versus fused pattern, has already been presented elsewhere (see Sootla & Laanes, 2015). That particular analysis identified four governing patterns during the interwar period and three patterns since 1989. As can be seen from Table 7.1, while the fused pattern dominated during the interwar period, since the 1990s the dual pattern has been most prevalent, influenced by the example of the Nordic countries. In 1989–1993, the county level was characterised temporarily by a fused pattern, although formally it was more of a dual one. At the county level there was a local government with an elected council, but its main task at that time was to hand over its municipal tasks to the cities and rural municipalities.

Table 7.1 Summary of patterns of county governance in Estonia

Unit/ dimension	1917–20	1920–34	1934–38	1938–40	1989–93	1993–99	1999 [–2017]
General pattern	Second tier indirect self-government and separate prefect	Second tier self-government merged with prefect's role	Prefect as the head of generalist field office	Prefect as the head of generalist office and indirect self-government	Second tier local self-government and generalist office merged with prefect's role	Prefect as the head of generalist field office	Prefect as solely a representative of the state

Formal pattern of central-local relations	Fused	Fused	Fused	Fused	Dual [Temporarily fused]	Dual (Split hierarchy)	Dual (Split hierarchy)
Head of government	Governor, Collegial	Governor, Collegial	Prefect, Collegial	Prefect, Collegial	Governor, collegial	Prefect	Prefect
Council	Indirectly elected	Direct elections	No	Indirectly elected	Direct elections	No	No

Source: Sootla & Laanes, 2015, p. 213.

7.1.1 THE ROLE OF LEGACIES DURING CRITICAL JUNCTURES IN THE 1990S

The relevance of legacies, or lack thereof, is somewhat reflected in the institutional choices made in the transitional decisions of 1989/90,¹⁸¹ in the Constitution, in the County Administration Act of 1993, and in the Government of the Republic Act of 1995. These pieces of legislation were the main ones regulating county governance at the beginning of the 1990s.

As already indicated in Chapter 6, the power concentration at the raion level, as well the soviet politico-administrative system in general (Sarapuu, 2017), which had been effected during the Soviet period, was a negative experience, and something that decision-makers attempted to leave behind in the 1990s.¹⁸² 'Moreover, because the county government was a stronghold of communist soft-liners, but the new political elite regarded the municipal level as a basis for its political power resource, a strong political cleavage' between tiers, besides the structural tensions, shaped the context for the evolution of county governance (Sootla & Laanes, 2015, p. 207).

Both the communist and interwar legacies played a role in the *decisions of 1989–90*. The communist legacies acted as constraints – especially the power of the old elites at the raion level and the remnants of old institutions in the new environment. The initial two-tier local government can be seen as a conversion, where the raion soviet was converted into a second-tier local

¹⁸¹ The decisions of 1989/90 refer here to the Local Soviets Election Act of 1989, to the Decision on Implementation of Administrative Reform of 1989, to the LGFA of 1989, etc.

¹⁸² At the meeting of the Constitutional Assembly in October 1991, H. Runnel had this to say about the issue of tiers: 'People have a real fear that the current raion centres are full of corrupt people and that keeping these centres viable might be dangerous. Therefore people say that all the power should be concentrated in the rural municipality. But is it like that? It might be a temporary state of mind, because if we implement the other option, namely appoint alien leaders [*kroonu juhtkond*] from the capital to the counties, then we will create a terrible phenomenon – an alien state [*kroonuriik*]; and I am of the opinion that as a citizen it is even a bit better to deal with local corrupt people than with the authority's executors sent from the distant capital, and with whom we share no common language. This is a dilemma.' (CCA, 1997, p. 343).

government via competitive elections and a new legal framework in an attempt to temporarily revive the interwar legacies of strong municipalities.

The directly elected raion/county council in 1989 was a transitional phenomenon because during the Soviet period the raion soviet was 'elected' and the competitive election aspect was added in 1989 as a natural part of democratisation. Therefore there is no clear strong basis to connect the elected county council with the 1920s. In addition, the main debate in Parliament during the adoption of the election act was the question of who had the right to participate in the elections; this is a communist legacy – a 'legacy of incomplete nation building' (Crawford & Lijphart, 1995, p. 187).

When it comes to the *Constitution*, in September 1991, the county governors and chairs of the county councils opted for the local government part in the Constitution to follow the 1938 Constitution model (Eesti Vabariigi Põhiseadusliku Assamblee VII toimkond, 1991, October 5, p. 9). While the county governors wanted the county council to be composed of deputies delegated by the councils of cities and rural municipalities, the council chairs preferred a directly elected county council instead (Eesti Vabariigi Põhiseadusliku Assamblee VII toimkond, 1991, October 5). Both versions existed at different times during the interwar period. The council chairmen's preference for direct election can also be explained as an attempt by actors to increase the power of the representative. The main argument for the 1938 system was that it represented 'a balancing synthesis of state power and self-government' (Eesti Vabariigi Põhiseadusliku Assamblee VII toimkond, 1991, October 5, p. 10), and therefore the system inscribed in the County Act of 1938 was still a positive example to consider, although it was not fully implemented. In the end, no decision about the county was inscribed in the Constitution. Nonetheless, as described in Section 6.2, for some, stipulating the county as second-tier local government in the Constitution could have kept the old elite at the raion level, and implied maintaining power at the county level as an element of the Soviet system.

At the first reading of the *County Administration Act of 1993* in the parliament (Riigikogu Verbatim Record, 1993, June 9), the representative of the relevant parliamentary committee admitted that the thinking behind the bill was similar to that of the County Act of 1938, although it followed the principle of decentralism, contrary to the Act of 1938. The County Administration Act was a temporary Act and a very short one, in contrast to the County Act of 1938. The local government interim system established in 1989 was reorganized in 1993 'into a split hierarchy [...], where two autonomous realms of public authority do not have direct institutional contact at the county level' (Sootla & Kattai, 2010, p. 583). In essence then, the counties became a part of the central government apparatus, again making it more difficult to make the county level administration a part of local government.

The adoption of the *Government of the Republic Act in 1995* only anchored the county government as a governmental authority.¹⁸³ The discussions were limited to the continuation of the path chosen in 1993. For example, it was discussed whether the term ‘county government’ should be replaced by the term ‘office of the county governor’ or not (see Justiitsministeerium, 1995, October). The county governors objected to the proposed change because, according to them, a reform of that scale would have needed a longer preparation time (see Justiitsministeerium, 1995, October). Although the term ‘county government’ was incorrect, as county government is not a collegial body, the term was retained because people were accustomed to it (Riigikogu Verbatim Record, 1995, November 16). This signifies (weak) path dependence with the interwar period; if a different term had been used for the county government in the interwar period, it would have been easier to change the terminology in 1995. The fact that the appropriate term would be ‘office of the county governor’ was also highlighted in the reform plan of 1998 (see Aru, 1998).

The impacts of joining the European Union and of Europeanisation at the county level are very limited. In contrast to many other Central and Eastern European countries, ‘Estonia has matched its institutions to the requirements of the EU regional policy by making only minimal changes to its system of local and regional governance’ (Kungla, 2010, p. 182). Coupled with the fact that, for the county level, the interwar period was referred to as a source of ideas more than other countries were, it can be stated that the impact of external support on the county administration was limited and weak, compared to the legacies of the past and institutional choices.

7.1.2 INITIAL WEAKENING OF COUNTY GOVERNMENT SETS PATH FOR DECADES

Administration or local government at the meso level has existed for more than a century. The lack of territorial reform (i.e. the context) kept the remnants of county government functioning and relevant, during both the interwar and re-independence periods. The large number of rural municipalities was a constraint that kept the institution on the path. Removing the constitutional protection of county government has not resulted in the abolishment of county government, although it has made it easier to increase the state influence at the county level and to make it a state authority.

The interwar system was inherited from the days of the Russian Empire, and the need for reform was voiced throughout the 1920s. The main obstacle to abolishing the county governments stemmed from the fact that the state level could not cope with the supervision of about 375 rural municipalities. The

¹⁸³ As county governors were the Government’s representatives in the counties and county governments were government authorities, the county government was regulated in the Government of the Republic Act (Riigikogu Verbatim Record, 1995, November 16).

Constitution of 1934 included the mandate to abolish the county governments, although in practice the latter were replaced by temporary county governments as both an administrative body and the extended arm of central government. The few years of temporary county government demonstrated that there has to be something between the state level and the level of cities and rural municipalities – it was not feasible to carry out all the tasks performed at the county level at other levels. The path set before the independence of the state was difficult to alter.

The county government's very own institutional design was only created with the County Act of 1938, integrating at the county level both the state level (the county governor was a state representative, appointed by the President) and the local level (members of the county council were elected from among the rural municipality mayors and city elders by the plenary of the mayors and city elders). Therefore, the Estonians' own system was created and put into place only under the authoritarian regime. This altered the path set at the time of the Russian Empire.

A path-dependent explanation of the development of county government is presented in Figure 7.1. I refrain from calling the 1934 attempt to abolish county self-government a critical juncture because it does not wholly meet the critical juncture definition.¹⁸⁴ The path dependence from the Russian times was too strong to alter. Whether or not to term the result of the County Act of 1938 a critical juncture poses another question, for two reasons in particular. First, the change was made under the authoritarian regime, and second, although the County Act of 1938 was in force for a short period, it created a legacy that is still referred to.

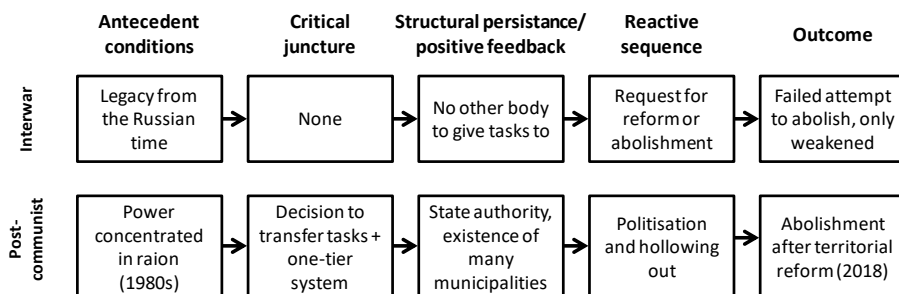


Figure 7.1 Path-dependent explanation of the development of county government in the interwar and post-communist periods

When it comes to the post-communist period, the purpose of the reform initiated in 1989 was to restore strong municipal self-government and to transfer the tasks from the raion/county to this level. The option of county self-

¹⁸⁴ As defined in Section 3.1.1, a critical juncture is a 'major episode of institutional innovation that generates an enduring legacy'.

government was still on the table until 1993.¹⁸⁵ The decision of May 1993 on establishing a single-tier local government ‘was a victory by the new political elites’ (Sootla & Laanes, 2015, p. 208) who saw the county level as a competitor to the local level. This decision put county government on the path that was followed until 2017: gradually increasing dependence on the Cabinet and losing functions to the government agencies, which eventually resulted in the abolishment of county governments in 2018.

The decision of May 1993, which established single-tier local government, contains only three short points. The Parliament adopted it mainly because the Constitutional Assembly and the designers of the LGOA of 1993 were not able to take a clear position on the number of tiers. The inexperienced political elite might have also started to understand the non-political problems related to the second-level local government (Sootla & Lääne, 2012, p. 302). Since May 1993, the two-tier local government has no longer been an option, or at least one where there is a county government as such at the second level. Therefore the critical juncture lasted from 1989 until 1993. In May 2016, the Ministry of Finance proposed five different options for the development of county government in its analysis (Rahandusministeerium, 2016a, p. 237), but none of these foresaw the county-level local government. The same analysis proposed abolishing county governments as of March 2018 by transferring their tasks to the agencies under the ministries, or to local governments (or the associations of the latter), and establishing regional agencies for some functions.

When it comes to the strength of county government as a political institution, the analysis leads to the assumption that the negative legacy of the raion was stronger than the positive memory of the interwar republic, because within the space of almost three decades there was no serious attempt to strengthen county government, and county-level local self-government was not even considered. The path set in 1989 – of relinquishing tasks and resources at the county level – has been followed, but in addition to passing these tasks downwards to municipalities, the tasks have also been transferred to the state.

During the whole post-communist period, several alternatives have been possible, including giving the county-level tasks to the local government associations, transforming county government into state authorities with more extensive responsibilities and tasks, and so forth. For some reason, the political parties have not dared to strengthen the county governments, despite the fact that the county governors have become political appointees and therefore more controlled by the state. The option of giving county-level tasks to the county or municipal association would have required changing the status of the association in the legislation (Sootla & Laanes, 2015, p. 209).

¹⁸⁵ Ginter (1991, p. 338) already noted in 1991 that as the tensions between local councils and local governments were pronounced enough, drafts abolishing county councils were under preparation.

Path dependence during the interwar and post-communist period is evident, but path dependence between those two periods is questionable. There is no visible impact of the decisions made during the interwar period on the post-communist period when it comes to the county government.

After abolishing the county government in 2018, only time will tell whether Estonia will face any of the challenges that it faced in 1934–1937 with the temporary county government.

7.2 THE APPOINTED MAYOR

Traditionally in Estonia the municipal government has been led by a mayor (i.e. the plural executive model). The mayor has been an inseparable part of local government in Estonia and some even used the term ‘mayor’ to describe the chair of the executive committee. Hence, the institutional legacy of the interwar republic mayor remained in people’s minds throughout the Soviet period.

Arguments in Europe in favour of directly electing the mayor include increased accountability and transparency, but ‘the outcome of these debates about the rights and wrongs of direct mayoral elections are influenced and shaped by the distinct political culture and history of the country concerned’ (Kukovic, Copus, Hacek, & Blair, 2015, p. 694). In the case of the Baltic countries, the mayor has been directly elected only in Lithuania as of 2015, after more than a decade of debate. In Estonia and Latvia the mayor is elected by the local council. In Slovenia, where direct election was introduced in 1994 and trust in political parties is low, independent candidates and lists are becoming increasingly successful election after election, also in large cities (Kukovic, Copus, Hacek, & Blair, 2015).

7.2.1 WIDELY USED PRACTICE OBSCURES LEGACY

In Estonia, the election of the mayor has almost always been within the remit of the council, and the mayor has never been elected directly by the people. The only exception was the so-called ‘Era of Silence’: with the Decree of 19 March 1934¹⁸⁶ the Government of the Republic was empowered to appoint the mayors of four cities, where the mandates of more than 30% of the councilmen had been annulled (Postimees, 1934b). In addition, under the City Act of 1938, the mayor of the capital city was appointed by the President of the Republic. In the first-level cities, the Government of the Republic appointed the mayor based on a nomination by the Minister of Internal Affairs. In the second- and third-level cities, the mayor was appointed by the council, but was subject to the approval of the Minister of Internal Affairs. The appointment of the mayor by the state level can be regarded as a deviation attributable to

¹⁸⁶ Decree amending the City Act (*Linnaseaduse muutmise dekreet*).

authoritarianism. In addition, the length of the mayoral mandate has always been dependent on the mandate of the council. The end of the 1930s again proved to be an exception, although separating the duration of the mandates had been discussed already before 1934.

It is difficult to say anything about the impact of legacies in the case of the mayoral appointment for several reasons. First, in the parliamentary procedure, references to the interwar or communist legacies are not evident when it comes to the appointment/election of the mayor. Secondly, the procedure whereby the council appoints the mayor was, and is, widely used in Europe. Thirdly, the council appointed the mayor in the interwar period and the same principle was used for the equivalent post (i.e. chair of the executive committee) during the communist period.¹⁸⁷

7.2.2 PATH ENFORCED BY CONTEXT OR LEGAL PATH DEPENDENCE

The direct election of the mayor has never been seriously and openly considered in recent decades in Estonia. However, the principles of the Local Soviets of People's Deputies Election bill, published in 1988 (Rahva Hääl, 1988), stated that in addition to the deputies the chairman of local soviets would also be directly elected (the equivalent in the current system is the chairman of the council). Among the feedback submitted on the principles in 1988/89 we can find proposals for the direct election of the mayor or chair of the executive committee (Eesti Vabariigi Ülemnõukogu Esimehe Kantselei, 1988/1989). Some proposed introducing the direct election of the mayor in the LGFA of 1989, but the Local Soviets of People's Deputies Election Act had already been adopted in August that year and it did not foresee the direct election of the mayor. Hence, the Election Act eliminated the option of direct election; in other words, the path was selected with the Election Act.

A possibility for a juncture emerged in 1993 with the LGOA bill, which stated that the council would elect the mayor. During the reading of the bill in parliament, a motion to amend was presented, according to which the municipality government would be led by a specialist (chair of the city or rural municipality government) and the mayor would lead the council. This proposal was rejected.¹⁸⁸ The status quo, namely an appointed mayor, was maintained with reference to other posts in the governing system. A similar proposal and various alternatives were also proposed in the reform plan of 1998 (see Aru, 1998). Every now and then some politicians have brought up the idea of direct election, but it has not engendered a public debate.

In the absence of a solid debate on how the mayor should be elected or appointed, I am disinclined to say whether the antecedent conditions

¹⁸⁷ Under § 7 of the Act on the Parish Administration in Baltic Provinces of 1866, the mayor of a rural municipality was elected by the plenary of the rural municipality, which can be seen as a direct election.

¹⁸⁸ 20 were in favour, 31 against, and 6 abstained (Riigikogu Verbatim Record, 1993, May 12).

(including interwar legacies) have or have not had an impact on that decision. The legacies explanation in the case of the appointed mayor is questionable. However, a strong executive can relate to Pääts' authoritarianism, which in turn could have fostered reluctance to consider the direct election of the mayor.

To add context to the analysis of the election of the mayor, the changing power of the mayor vis-à-vis the council is summarised in Table 7.2.¹⁸⁹

Table 7.2 *Selected indicators of horizontal power relations*

Whether ...	City Act of 1892 (version of 1927)	City Act of 1938	Fundamentals Act of 1989	Organisation Act of 1993
... the mayor is directly designated by the citizens	No (appointed by the council)	No (either (i) appointed by the President, or (ii) by the Government of the Republic, or (iii) elected by the council and approved by the Minister of the Interior)	No (appointed by the council)	No (appointed by the council)
... mayor's term in office is equal to the council's	Yes	No	Yes	Yes
... mayor can be recalled by the council	Not regulated	Respectively the President or Minister of the Interior can release the mayor from office	Yes	Yes
... mayor presides over the council	No	Yes	Yes (in the primary-level municipalities) / No (in the secondary-level cities)	No
... mayor can at least co-define the council agenda	Yes	Yes	At the primary level – yes; at the secondary level – no.	The possibility is limited
... the mayor appoints the city secretary	Yes	Mayor makes a proposal and the Minister of the Interior appoints	Yes	Yes

Source: Laanes, 2012

The Table shows that the mayor presided over the council meetings mainly when the central government was aiming for centralisation or when there was a need to implement a major reform. The gradual establishment of municipalities provided a good opportunity to demonstrate the importance of the mayor, and as the posts of mayor and chair of the council were unified at

¹⁸⁹ The table is based on the main indicators (with some modifications) that were used in an international survey reported by Heinelt and Hlepas (2006). The survey covered 17 European countries and focused on mayors.

the primary level, this was thanks to the context – namely the need to concentrate powers in order to implement the reform, and the potential lack of suitable candidates in small municipalities. Hence, the context and Soviet legacies temporarily suppressed the interwar legacies when it came to unifying the posts of mayor and council chairman.

Many aspects in Table 7.2 can be explained by the separation of powers between representative and executive. For example, the initial bill of the LGOA of 1993 provided the possibility for the city or rural municipality government (i.e. the executive body) to initiate an expression of no confidence in the council chair, which the experts (Ekspertgrupp, 1993, April 14) highlighted as being against common logic. The same experts also drew attention to the lessons and examples of the interwar Republic.

In summary, the alternative in the form of a directly elected mayor has been available but, on the one hand, previous decisions have been used to justify the appointment of the mayor and, on the other hand, it may be a case of legal path dependence,¹⁹⁰ where the alternative has not really been considered, because discussions on the direct election of the mayor are rare in parliamentary debates after 1993.

7.3 ELECTION RULES IN POLITICAL WINDS

For some institutions, path dependence is not very evident. In the case of electoral rules, there is a low degree of interrelation or complementarity with other institutions, and path dependence between the two periods of independence is marginal at best.

During the interwar period, the principles of election rules were generally changed before every election. In the case of voting rights and eligibility for nominations, the changes were often linked to the changes in the legislation concerning parliamentary elections and the changes in the Constitution. A proportional system was used for most of the period, which was also anchored in the Constitution until 1938.

7.3.1 LEGACY OF INCOMPLETE NATION-BUILDING COMMANDEERS THE PARLIAMENTARY DEBATE IN THE 1990S

A proportional system was introduced in Estonia in 1918. In 1933, the shift to voting for individuals instead of lists was mainly due to the context – economic recession, failed attempts to amend the Constitution, and a surge in the veterans movement (Adams, 2009). Adams claims that people could have enshrined the election of individuals, which occurred during the Tsarist times, in their memories; it was nostalgic and therefore easier to revert to it in the

¹⁹⁰ 'Legal path dependence occurs when an initial path effectively blinds lawmakers to alternative paths' (Schwarcz & Sharon, 2014, p. 1722).

1930s. In addition, the new system of 1933 borrowed some elements from Finland (Klesment, 1933, p. 211) and hence it was not a reapplication of the old self-tested system.

When it came to the local election rules of the post-communist period, the interwar practice was ignored, although some thought the election rules of 1939 could be used in the 1990s with certain amendments (CCA, 1997, pp. 139-140), or at least that some elements of the interwar period (e.g. limited vote method) could be used. Instead, in 1989 and 1993, the focus in the parliament was on who should have the right to vote. This is what Crawford and Lijphart (1995) have called the (communist) legacy of incomplete nation-building. Another communist legacy, or antecedent condition, was in action in 1996 when the parliament unsuccessfully sought to introduce an *ex ante* control mechanism,¹⁹¹ ensuring that all candidates would have a good enough command of Estonian to effectively participate in council work. In the Soviet era, it was not necessary for ethnic Russians living in Estonia to learn Estonian, and so individuals could have been elected to the council who were unable to participate fully in the council work due to language shortcomings.

Utility maximisation is an argument for the two main debates related to the local elections in the later post-communist period – dual mandate and electoral alliances. These debates have not been influenced by interwar legacies, and as the interwar election system was in constant flux, no solid legacy was formed. As personal connections and informal networks are considered a Leninist legacy (LaPorte & Lussier, 2011), Soós (2010, p. 124) considers it probable that as '[p]ersonal connections served as a major resource under the previous regime' in Hungary, the *cumul des mandats* 'was prohibited in the first years after the system change'. In Estonia, it was prohibited only from 2002 and the ban came into effect in 2005. As of 2017, it is again allowed to combine the mandates of Member of the Parliament and of the local council. As a result, this legacy did not have the same effect in Estonia during the first years of re-independence.

When it comes to the citizen electoral alliances, the fact that these were established could have been a remnant of the transitional rules, which have been difficult to alter subsequently. Some see the attempt to ban the citizen electoral alliances as a form of mandatory party membership (*sundparteistamine*). The latter is a communist legacy, which worked in favour of the electoral alliances. While the Political Parties Act of 1994 aimed to speed up the formation of political parties and broaden their membership, the term 'party' carried a negative connotation, and hence the process of letting

¹⁹¹ A similar provision on language was used in Latvia. Therefore several members of the Estonian Parliament interpreted the President's decision in May 1996 not to proclaim the Local Government Council Election Act of 1996 as a political issue, not a legal one (Riigikogu Verbatim Record, 1996, May 14).

only political parties present candidates at the local elections had to be gradual (Riigikogu Verbatim Record, 1996, April 17).¹⁹²

7.3.2 LIMITED PATH DEPENDENCE

The electoral rules have not changed fundamentally since 1993. As demonstrated, the rules for the local elections of 1989 were transitional ones, where a balance had to be struck between the new system and the old higher-level rules that were still in force. The fact that there have been no major changes does not automatically imply the impact of path dependence, however. In order to claim that there is path dependency, other alternatives must also be available, as well as ‘positive feedback effects that generate continuity’ (e.g. who benefits from the institution) (Sorensen, 2015, p. 22). Alexander (2001, p. 259) suggests electoral laws as an example of easily amendable or ‘non-sticky’ institutions, because these ‘can be changed by a simple legislative majority’. When we take a look at the elements set in the Constitution (see Table 7.3), we can see that there were more elements in the Constitutions during the interwar period than there were during the post-communist period. All four Constitutions have left legislators with considerable room for manoeuvre.

Table 7.3 *Local election principles in the Constitution*

Constitution	Elements in the Constitution
1920	Direct elections, proportionality principle
1934	Direct elections, proportionality principle, voters have opportunity to vote for individuals
1938	Direct elections, voters have permanent residence or employment in the municipality they vote in
1992	Direct elections, voters have permanent residence in the municipality and are at least 18 years old (In 2015, the age requirement was reduced from 18 to 16)

Basic rules for the parliamentary elections had already been established before the local election system was redesigned in 1993. It is noteworthy that the parliamentary election rules were not taken as a model or basis for designing the local election system, however. As the Constitution of 1992 stipulated the proportionality principle only for the parliamentary elections, such pre-determination did not exist for the local council elections, which meant that the legislators were free to design the electoral rules as they saw fit.

¹⁹² In Lithuania there were only party lists in the local elections of 1995.

Setting the requirement for a political party to have at least 1,000 members in 1994, stipulating state subsidies for the parties in parliament, and banning electoral alliances in the parliamentary elections since 1998 have all contributed to the cartelisation of party politics (Pettai, 2009). The minimum threshold for party members has been put forward as an argument for why electoral alliances at the local level cannot be abolished. When the threshold for party registration was set at 1,000 members in 1994, it was acknowledged, during the debate on the Political Parties Act in 1994, that parliament serves as the primary functioning level for parties, while at the local level there are many non-party lists (Riigikogu Verbatim Record, 1994, May 11).¹⁹³ The small size of the municipalities has therefore been a constraint and enforced the set path (i.e. the existence of electoral alliances). It has been in the interests of many political parties to abolish electoral alliances, not only because of the power at the local level, but also because local council members without party affiliation increase unpredictability when electing the President.

Hence, we can claim that in the case of election rules, path dependence is weak at best over the two periods of independence. In this sense, rational-choice institutionalism could possibly provide a better explanation because changes have largely been introduced when actors have wanted to use election rules to maximise their utility.

Despite the lack of path dependence vis-à-vis the interwar Republic, the electoral alliances phenomenon is possibly path dependent within the post-communist period. The negative connotation of the 'party' and the existence of small municipalities have resulted in no ban being placed on electoral alliances. Figure 7.2 deserves some explanation. The critical juncture for electoral alliances depends on judgement and interpretation. There are at least two different perspectives from which one can approach the issue. First, we could treat as a critical juncture the decision to allow citizen electoral alliances at the elections in addition to political parties and individuals. Second, the policy choice whereby political parties are national-level players was made with the Political Parties Act of 1994. This choice can be treated as a critical juncture because it created a system in which the political-party playground occurs at the national level, and renders infeasible the existence of political parties whose activity would be restricted to just one or a limited number of municipalities. At the same time, this choice can be seen as a strong variable that reproduces the structural pattern.

¹⁹³ In the *Riigikogu* in 1994, during the discussion over the Political Parties Act, some MPs stressed that during the interwar period, or pre-1934 to be precise, three members would suffice to form a political party (Riigikogu, 1994, May 4). The bill for the Political Parties Act of 1994 was drafted mainly following the example of the respective Act of Finland and Germany (Riigikogu, 1994, May 11).

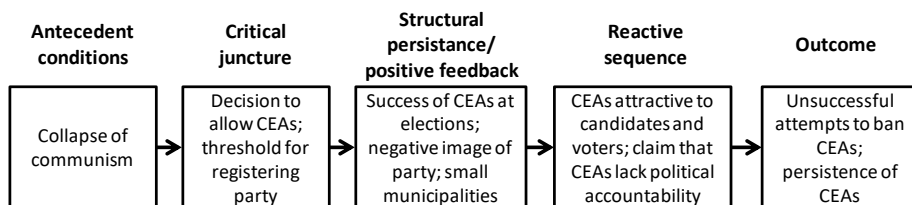


Figure 7.2 Path-dependent explanation of citizen electoral alliances

7.4 DEVELOPMENT OF CENTRAL-LOCAL RELATIONS FROM THE STANDPOINT OF CONTINUITY

The development of local government institutions, analysed above, also sheds light on central-local relations. As already indicated, the fused system was predominant during the interwar period, while the dual system was formally in use in the post-communist period. In both cases, the respective system was a result of external impact. In the interwar period, the system was a legacy of the Russian empire, but its format was strongly influenced by the ideas of Prussian reform architect and statesman vom Stein, and reflected continental European principles. It is interesting to note that while in the post-communist period the state-level institutional setting followed the continental European state tradition, the Scandinavian tradition predominated at the local level.¹⁹⁴ That inevitably created additional tensions. The main reason for the establishment of the dual system in the 1990s was the connections of the Estonian elite with the Nordic countries and the direct assistance of their local government associations, which can be seen as a contingency. The external influence on institutional design can be interpreted as a source of disruption of continuity. The fact that foreign expertise and policy transfer were supply-based in Estonian public administration at the beginning of the 1990s, due to urgency, but demand-based from the late 1990s, has also been highlighted by Randma-Liiv (2005).

When it comes to drawing comparisons between the two periods of independence, mention should be made of the fact that at the beginning of interwar independence, the municipalities and also the county level were more developed than the national level in terms of (democratic) political institutions than in the wake of the post-communist period. The strong local government was a legacy of the Russian empire. At the beginning of the 1990s, the primary level had to be restored and the county level was impacted by negative legacies from the Soviet period. Therefore, due to the negative experiences of strong raions under Soviet rule and the positive legacy of strong municipalities in the 1920s, coupled with the general democratisation and decentralisation trends,

¹⁹⁴ For additional details on four state traditions (Anglo-Saxon, Germanic, French, and Scandinavian), see Loughlin, Hendriks, & Lidström, 2011, pp. 11–13.

it was only to be expected that the counties would lose at least some of the power, while the cities and rural municipalities would gain power and functions. However, centralisation trends were in evidence even in the mid-1990s and the 2000s. Hence, the antecedent conditions of the two periods were different.

7.4.1 TENDENCY TOWARDS A NORTHERN EUROPEAN SYSTEM

With its Protestant past and present, Estonia should belong, according to Page and Goldsmith's typology, to the Northern tradition. The latter is characterised by a wide set of functions, a high level of discretion, and a low level of connections between local government actors and those at the state level. If we take a look at these typological elements, then the tendency in both periods is more towards the Nordic/Protestant type than towards the Southern orientation (see Table 7.4), especially when we take into account the fact that local politicians are not influential at the central level. Decentralisation in the 1990s was mainly political and somewhat administrative with limited fiscal decentralisation, which, according to Falletti (2010, p. 37), 'indicates that the national government has the upper hand'.

Table 7.4 *Estonian local government in the North-South typology*

	Interwar democracy (1918–1934)	Post-communist period
Functions	Low	Medium
Discretion	High (with a tendency towards medium)	Medium (with a tendency towards high)
Local politicians' access to the central state	Low to medium Cities had direct access to the central government as they were subordinated to the national and not to the county level, while for rural municipalities, the county served as an intermediary. Access also through associations.	Low (initially medium) Access mainly through associations. Based on the example of budget negotiations, the access is low. In addition, the political parties' representatives (especially after the dual mandate) can obtain better access than the election coalitions.

Functions. When calculating local government expenditure as a percentage of GDP, which is a way to assess decentralisation and also an 'indicator of functional importance of local governments' (Soós, 2010, p. 117), it is apparent that during the interwar period its development progressed in pace with that of the state. In the current period, the graph looks somewhat different (see Figures 4.1 and 6.2 above). One interpretation, which would require further study, is that while during the interwar period the pace of two levels was more or less the same, in the post-communist period the local government functions

decreased compared to those of the central government.¹⁹⁵ Another observation based on those two figures is that the local government expenditure during the post-communist period has stayed between 5 and 10% of GDP, while during the interwar period it was constantly below 5% of GDP.

Discretion. In order to comment on the discretion of local governments, we need to understand the legal framework and financial regime in which they operate (Goldsmith & Page, 2010, pp. 5–6). Despite the constitutional guarantee, the state can and does restrict local discretion in several ways. Firstly, by means of earmarked grants, and secondly, if the revenues do not cover the expenditure related to performance of the mandatory functions. The latter has also been acknowledged in Constitutional Judgement No. 3-4-1-8-09 by the Supreme Court, which in March 2010 declared

unconstitutional the failure to adopt such legislation of general application, which: 1) would stipulate what obligations imposed on local authorities by law are of a local character and what are of a national character; 2) would distinguish between the funds allocated to local authorities for deciding on and organising local issues from the funds allocated for performance of national obligations, and provide for funding of the national obligations imposed on local authorities by law out of the state budget.

In 2015, local taxes only constituted about 1% of all local government revenues, and the municipalities could decide on about 17% of the revenues (Riigikontroll, 2017, p. 9). This is an indication of path dependence within the post-communist period because legislation on local taxes was adopted in 1993, and the authority to replace or principally change it was subsequently lacking.¹⁹⁶ According to the National Audit Office (Riigikontroll, 2017, p. 30), about one-third of municipalities are interested in introducing new local taxes, chiefly a property tax, a heavy goods vehicle tax, and a tourism tax. According to the same survey, the local government associations are interested in local income tax. This also reflects the municipalities' wish for increased discretion.

Swianiewicz and Steyvers (2017) have concluded that in the post-communist period (in 1990, 2004, and 2014) political discretion in Estonia has been high and financial autonomy low. Furthermore, Ladner et al. (2016) measure effective political discretion in Estonia on a four-point scale as 2.83

¹⁹⁵ One domain which the state has started to take over from local government, or to compete with, is upper secondary education (see Laanes, 2016). Formally, the municipalities have had to give little away, e.g. primary healthcare; in this sense, the process has been stealthy.

¹⁹⁶ Setting the local government tasks during the drafting of the LGOA of 1993 was completed separately from setting the revenue base, and tax legislation was also adopted later, without considering the LGOA (Sootla & Kattai, 2010, p. 584).

in 1990 and 2.5 in 2014. Hence, discretion is marked in Table 7.4 as ‘medium with a tendency towards high’.

Access. While the arrangements for rural municipalities and cities were different during the interwar period, and cities had better access to the central government, in the post-communist period this differentiation in legal status has been eliminated. The only differences are that ‘local elections in Tallinn are held by city districts’ and since 2003 the residents of small islands have been obliged to hold a mandatory meeting at least once a year (Mäeltsemees, 2016, p. 87). During both periods, local government associations have been the main tool for local government to provide input into policy-making and the legislative process at the state level. This can be seen as an aspect of continuity.¹⁹⁷ While during both periods the associations wanted to be consulted more, the local politicians’ access to state-level politicians can be considered low. As individual local governments’ interests are represented via municipal associations, their access is limited (Goldsmith & Page, 2010, p. 7). On the other hand, the dual mandate or *cumul des mandats* can increase access through party networks (Goldsmith & Page, 2010, p. 7).

7.4.2 THE ROLE OF (CULTURAL) VALUES

When it comes to central-local relations, the path dependence with the interwar period, based on purely formal institutions, is unclear. Formally, the dual system was established based on external support from the Nordic countries as well as on the temporary political activism of local populations, which had already declined along with the crisis by 1993. An alternative fused system would have still been possible, but its likelihood was decreased by the geographical location (the proximity of the Nordic countries) and the fact that local government legislation of the interwar period stemmed from the authoritarian period. On the other hand, if we take a look at the essence of the central-local relations, one possibility is that the Soviet system was not able to modify the basic values of the people, and it was those self-same values that carried the democratic continuity and hampered the success of the dual system in the post-communist period.

The Soviet-style top-down system was gradually replaced by local activism in some municipalities even before 1989. For example, Ruutsoo (2000) has cited a former chair of the executive committee of the Kanepi village soviet who was proud that their village soviet supported national initiatives, even when these conflicted with those of Moscow. Therefore, they had to be double-faced and also follow the orders of the higher authorities at the same time, including those of Moscow. How much the local level knew about the interwar local government is unknown. The legislation of the 1990s assumingly reflects

¹⁹⁷ As the local government associations were re-established based on legal continuity, this has also restricted them. There is rivalry between the association of municipalities and the association of cities, which in turn is weakening the local government balancing power.

the (political and cultural) values of the MPs of the time (see Meyer-Sahling & Yesilkagit, 2011). Steinmo (2016, p. 108) emphasised that¹⁹⁸

at the core of historical institutionalism is the insight that history matters not just because it provides different contexts in which rational actors made choices, but because history affects actors' beliefs, values, and preferences. History matters for our understanding of politics because history provides experience and experience can change the beliefs and preferences of citizens and their elites. But, if we are honest with ourselves, we typically do not have the tools to test these propositions.

Realo (2013, p. 48), by applying the value theory of Ronald Inglehart and colleagues, emphasises that individual and group beliefs and actions are shaped by cultural values and these values are reflected in '[e]veryday practices and institutional functioning'. The development of cultural values is, according to Inglehart and Baker (2000, p. 49), path dependent: 'Economic development tends to bring pervasive cultural changes, but the fact that a society was historically shaped by Protestantism or Confucianism or Islam leaves a cultural heritage with enduring effects that influence subsequent development'. Based on that, Realo concludes that 'although the value systems of various countries are moving in the same direction under the influence of modernisation, the development of the values of these societies is influenced, to a significant degree, by their cultural, historical and religious legacies' (2013, p. 50), and hence by both Protestantism and communism in the case of Estonia.

Päts tried to institutionalise the corporatist regime and, according to Pinto (2014), the second half of the 1930s in Estonia is characterised by strong social corporatism and moderate political corporatism. Indications of corporatism have also been apparent in Estonia in the 2000s. In his doctoral dissertation, Olle (2002, p. 21) has pointed to indications of corporatism in Estonian politics in the 1990s and 2000s, as the changes in the power structure in the city of Tallinn had an impact on the relations between the coalition partners of the national government.

Sootla and Lääne (2012) claim that one explanation for centralisation, and consequently for the diminishing local autonomy from the mid-1990s onwards, is the gradual decrease in the balance of power and cooperativeness, and the deepening trend of protective autonomy. Indeed, the latter started to hamper the evolution of democratic local government. Similarly, the OECD (2011, p. 64) has observed a 'doing it alone' approach in the Estonian public administration. Such an approach weakens the position of the local government in its dealings with the state level.

¹⁹⁸ In the same text, Steinmo proposes combining historical institutionalism with experimental methods to test some propositions.

7.4.3 ADDITIONAL ASPECTS

History influences the current relationship between the centre and locality, as different conflicts have been resolved in different countries in different ways (Goldsmith, 2002, p. 94). Sootla and Lääne (2012, pp. 294–295) highlight that the ideology and principles on which the central government was developed differs from those of local government and that local government reforms have faced political confrontation between central and local government in Estonia since 1993.

While during the interwar period the county government performed a balancing function in central-local relations and connected the state and local government level at the end of the 1930s, in the post-communist period ‘the county government has not been considered as a core balancing institution in central-local relations. Rather, this role was expected to be played by the associations of local authorities’ (Sootla & Kattai, 2010, p. 584). The latter are involved through the local government associations’ cooperation council in the annual negotiation with the Government Commission on redefining local government financial resources. Municipalities have been dissatisfied with the negotiations because these are a formality and the state makes decisions based on its power position (Riigikontroll, 2017, p. 4).¹⁹⁹

In short, the legacies of both the interwar (or even the Russian empire) and the Soviet periods have impacted the development of central-local relations in Estonia, especially at the beginning of the 1990s, while external influences have also played a part. Despite the different initial conditions, the problems during both periods were the same: the central government’s preference for deconcentrated units instead of allocating tasks to municipalities or to their associations, coupled with limited opportunities for municipalities to influence state-level decision-making. The abolishment of the counties in 2018 can create a totally new system in Estonia and disrupt any continuity that can be identified now. This change of course would open up new perspectives for research on Estonian local government.

7.5 DISCUSSION AND CONCLUSION

In Estonia at the beginning of the 1990s, attempts were made to avoid taking certain decisions that would put local government on a specific path. One reason for this is that the persons involved in drafting the legislation were often experts, not politicians, and they wanted to leave some of the principal decisions to the politicians (e.g. choosing between a single or two-tier local government system), or just to leave some options open (e.g. the direct election of the mayor). Policy development up to 2017 regarding local government has

¹⁹⁹ Local government representatives have not signed the final protocol of the negotiations for several years (2010, 2012, 2013, and 2015) to demonstrate their disagreement (Riigikontroll, 2017, p. 27).

largely followed the path set in 1993. The most noticeable changes during the last few years include state-run upper secondary schools and territorial reform. The latter was implemented without providing information on what the functions of local governments would be, and how their revenue base would be determined.

The central-local relations set in the legal framework in the interwar period contained elements which decision-makers tried to avoid in the 1990s, (i.e. negative legacy), especially when it came to the strong executive. But that period has also produced many positive legacies. The legislation of 1937/38 has also been referred to in the explanatory memoranda of bills in the 2000s²⁰⁰ and parliamentary debates as a positive legacy, despite the fact that democracy was already interrupted in 1934. As history is awash with contingent events, we cannot know whether the current local government would have been different if the legislation of 1937/38 had been adopted in the 1920s, or if the ELGA had become law in 1920.

As the focus of this study has been on formal institutions, the main factors impacting the development of local government institutions in Estonia in the 1990s were context, legal path dependence, and legacies (see Table 7.5 below). The post-communist developments of local-central relations have been influenced more by behavioural and attitudinal legacies, when using the categorisation of LaPorte and Lussier (2011), than by the institutional legacies of the pre-communist and communist period. The main institutional legacy is the organisation of territorial administration.

Table 7.5 *Summary of selected institutions*

	Historical legacies and antecedent conditions (including legacies of previous periods) impacting institutional choices	Path dependence in the post-communist period
County government	<ul style="list-style-type: none"> - Power concentration at the raion level - Municipal level as a potential power base of the new political elite, while old elites in power at the raion level; - County Act of 1938 – considered in drafting the County Administration Act, but no significant impact. 	In the initial phase, it was important to weaken the raion and the old elite; the path chosen in 1993 was maintained, and no attempts were made to strengthen the county government. The gradual decline of the county level culminated in the decision to abolish the county government (as a state authority) as of 2018.
Appointed mayor	Difficult to identify	Possible legal path dependence as the mayor was usually appointed by the council during the interwar and post-communist period.
Election rules	<ul style="list-style-type: none"> - Incomplete nation building; - Negative connotation of political party. 	For electoral alliances, the path set in the transition was enforced by the presence of small municipalities and the negative connotation of political party.

²⁰⁰ E.g. amendment of LGOA (bill 407 SE).

When it comes to path dependency, this has been strongest in the case of county government, followed by the appointment of mayor. Both institutions are interrelated with other institutions and this has duly reinforced path dependence. As election rules are less connected to other institutions of the governance system and are procedural institutions, path dependence is not so visible there. In addition, in the development of county government we can also see the interaction between interwar and communist legacies, which are virtually absent in the case of election rules.

Research question 1: Which aspects of local government institutions in Estonia have exhibited the strongest path dependence and in which institutions has this been weak or missing and why?

According to Alexander (2001), not all institutions are path dependent, and he proposed that election rules may be one of the non-path-dependent ones. The Estonian case largely confirmed this proposition. During the interwar period, the municipal election system was changed basically before every election. Whether this was due to a fragmented government coalition at the national level, parties' wishes to achieve certain political outcomes, or simply a search for the best system, calls for further research. In the post-communist period, the election system has been more stable, but I propose that on the whole it is not path dependent.²⁰¹ A visible exception is the element of electoral alliances, for which the path was locked in 1993/94 and subsequently enforced by the negative connotation of the political party (communist legacy), and by the existence of many small municipalities (context).

The strongest path dependence is exhibited by county administration, whose development has been crucially influenced by the decisions of 1917 or even earlier. In 1920 it was found that making principal changes would be too time- and resource-consuming (large set-up costs), and therefore the system that existed during the Russian times was maintained and only gradual changes were introduced (layering). A potentially stable structure was created in the County Act of 1938, but turned out to be a temporary phenomenon. In the post-communist period, an approach towards a weak county (to weaken the communist legacy) or a county as a state representative was taken at the very beginning, and was retained until the abolishment of county government in 2018. An alternative of giving the majority of the county tasks to the local

²⁰¹ The transitional election rules of 1989 were path dependent because the changes had to fit into the general framework set by the Soviet rules. The choice of a single transferrable voting method could have been influenced by the fact that there were as yet no political parties in the elections of 1989. The legislators had a free hand when it came to the rules of 1993, by which the proportional method was chosen for example, but at the same time other alternatives were also available (e.g. majoritarian). The political parties have not expressed explicit interest in changing the fundamental aspects of the system established in 1993. This may also imply that the proportional system has thus far served the interests of all political parties in Estonia compared to its alternatives.

government associations was suggested, but was not implemented. In Estonia, the county-level administration has always been the loser or 'underdog' in power struggles. At the same time, we have to keep in mind that the county level is already an inherently contested area, both territorially and functionally (Keating, 1997, p. 17).

One important difference compared to the election rules is that county administration is an interdependent institution (Pierson, 2004), which constrains changes after the institution is established because major changes in the county administration could also imply changes at the state or municipal level, as well as in the power dynamics.

Research question 2: What was the role of interwar legacies in the critical junctures and institutional choices of the post-communist period?

As 'Estonia and Latvia had the most substantial prior experience of democratic politics of any of the Soviet republics' (Linz & Stepan, 1996, pp. 402–403), it was practically impermissible to talk about path dependence without paying attention to legacies. This study has provided preliminary evidence that interwar institutional legacies were generally not the main variables impacting the institutional choices during 1989–1993, but were still important enough to make a difference to some institutional aspects. The interwar period's own legislation on local government was adopted only in 1937/38 (i.e. under the authoritarian regime), and hence when designing local government institutions in the 1990s, it was the 1937/38 legislation that was referred to and very rarely that of the 1920s. Local government associations of the interwar period were re-established in the 1990s based on legal continuity, and the interwar terminology was taken into use even if in some cases it did not wholly reflect the essence of a specific issue. While the European Charter of Local Self-Government provided the frame for institutional design in the 1990s, the input for details had to come from somewhere else – the interwar republic, local government associations in Finland and Sweden, and so forth.

Historical legacies have probably made certain institutional choices more likely and have determined the available alternatives, as Ekiert (2003, p. 93) suggested, and have also facilitated the rebuilding of local self-government. In the 1990s, the idea of local self-government was essentially derived from the interwar period and choices that would have retained the institutional elements introduced during the Soviet period were consciously avoided, if possible. In addition to interwar and communist institutional and attitudinal legacies, aspects such as context, agents' interest and external support also influenced the institutional choices.

Research question 3: What are the similarities and differences between the development of central-local relations in the two periods of independence?

While the interwar system was mainly an inherited one, in the 1990s the central-local relations of the Soviet period were drastically changed as a result

of decentralisation and democratisation. Furthermore, the state traditions followed in the two different periods are different. While in the interwar period both the local and state level followed the continental tradition, in the 1990s the local government system was based on the Scandinavian tradition²⁰² and the national level on continental one (more specifically on the German one). These engendered a different developmental logic as well as inherent conflicts in the central-local relations in the post-communist period.

²⁰² Due to close connections between the local government representatives of Estonia and of the Nordic countries.

8 CONCLUSIONS AND RECOMMENDATIONS

It is debatable whether the current institutions in Estonia have their roots in the interwar period or whether wholly new structures have sprung up in Estonian soil. One thing is clear, however: what took place at the end of the 1980s and at the beginning of the 1990s was a revival of local democracy. When it comes to the specific institutions, it can be concluded that the impact of the interwar experience on the post-communist institutions varies.

This thesis aimed to analyse the role of legacies and the applicability of a path dependence rationale as far as the development of post-communist local government in Estonia is concerned. As the study dealt with both history and institutions, historical institutionalism appeared to be an appropriate theoretical approach. Since starting to work on the topic there has been a notable advancement in the field, including through debates on central concepts such as legacies, path dependence, and critical junctures, but there is still a long way to go before the majority of scholars reach a consensus on what the term *legacy* actually means, for instance, and before they speak the same language. When it comes to empirical studies, the possible impact of the interwar experience on post-communist democratisation and institutional development is still a relatively grey area.

The thesis makes an original contribution to this field of study by providing a synopsis of selected aspects of Estonian local government over a time frame of almost one century and by analysing certain developments using the historical institutionalist approach, coupled with practices from the post-communist approach.

Conclusions and their implications

The main conclusions of the thesis are as follows:

First, it can be claimed that path dependence has been stronger for institutions as organisations and for interconnected institutions (e.g. county government) than for purely procedural ones (e.g. electoral rules). The direct election of mayors is also a procedural institution, but changes in this respect would influence the power balance between the council and the mayor and hence it has been more path dependent than rules concerning council elections. Whereas the choice between an open or a closed list, or the method by which mandates are allocated after elections does not impact the functions of the council, the direct election of a mayor would give the mayor a direct mandate instead of a mandate from the council. A mayor with a direct mandate would be less dependent on the council. This is in line with Pierson's (2004) elaboration of positive feedback and path dependence.

Second, despite the fact that historical institutionalism is limited in providing an explanation for the development of election rules in Estonia, it does not imply that, taken together, various new institutionalisms could not provide a more exhaustive explanation for the development of electoral rules or local-central relations. The complementarity of various strands of institutionalism has already been advocated for some time (e.g. Katznelson & Weingast, 2005; Peters, 1999; Raudla et al., 2017; Thelen, 1999).

Third, although one reason for the uniqueness of the Estonian case was its relatively long years of interwar democracy compared to many other post-communist countries, it used the institutions from the authoritarian period (i.e. the end of the 1930s) instead as a source of ideas for rebuilding local government in the 1990s. Hence, the current study has demonstrated that Estonian post-communist institutional choices related to local government were more influenced by the interwar authoritarian period and less by its democratic period. For this reason, in the case of Estonia, Wittenberg's (2013) proposed alternative periodisation, whereby the 'authoritarian period' label would cover both the Era of Silence as well as communism, would not be useful.

Metaphorically speaking, it could be claimed that while the democratic interwar period provided a vision as to what the rebuilt house should look like when complete, the builders had some construction materials from the interwar authoritarian period at their disposal, albeit only after they had customised them somewhat to fit the new structure. Even if it sounds paradoxical that decision-makers turned to the legislation enacted under interwar authoritarianism to cull ideas for democratic local government, this can be reasoned from readily available texts, as can the fact that they also resorted to legal restorationism and aimed to continue in the 1990s from where the Republic of Estonia was interrupted in 1940. Furthermore, local government in the 1920s was a result of the critical juncture of 1917 and thus not self-designed by the Estonian elite, while the changes at the end of the 1930s were brought about by ethnic Estonians. Another reason why we find very few references to the 1920s might be that the legislation on local government at the time was fragmented. The Estonian case broadly confirmed what many scholars have claimed – the majority of ideas and institutions at the beginning of the 1990s in Eastern and Central Europe were either anchored in interwar life or followed the example of Western democracies (Baldersheim & Illner, 1996; Nunberg, 1999) as there was a lack of innovative ideas (Habermas, 1990). Nonetheless, some innovative ideas on local government institutions were proposed in the process, but these were not implemented as a rule. In addition, due to time pressure and lack of experience, it is justified to re-establish institutions based on one's own experience or that of others. The current thesis demonstrated that legacies were carried over from the interwar period to the post-communist period mainly through the legal texts and written sources of the interwar republic, while political leaders were enablers in the process. The leaders had to decide

on the extent to which they would revert to history and to locally tried and tested solutions, and the extent to which they would look towards the rest of Europe.

Fourth, for Estonian local government, the Soviet period was more than just a temporary divergence or diversion from the path set in the pre-communist period. In terms of the institutional choices made at the critical juncture (1989–1993), and given the context, the desire to discontinue communist legacies was greater than the desire to revive the interwar legacies, and hence the communist legacies sometimes either weakened or eliminated the possibility of reviving the interwar legacies.

Fifth, this comparative historical analysis seems to be broadly in line with the conclusion drawn by Pop-Eleches (2007) in his statistical analysis, namely that interwar statehood had a lesser impact on the first years of transition and a greater impact in the 2000s. This is due to the fact that during the initial re-independence years in Estonia it was important to sever the communist legacies. The latter eliminated some of the institutional alternatives for local government in the 1990s. The geographical location was also of paramount importance, however, as relations with Finland and, to a lesser extent, with Sweden meant that these countries provided Estonia with potential examples and lessons to learn from.

Sixth, the analysis of selected local government institutions in Estonia demonstrated that the legacies explanation can have a place in the historical institutionalist approach. The legacies concept helps to connect the two periods of independence because, as demonstrated in Chapter 5, the local government elite of the interwar republic was eliminated in the 1940s, and the system created under the Soviet period primarily adopted a Union-wide approach. Historical legacies exerted an impact on the choice of path at the critical junctures and in some cases also contributed towards adhering to the chosen path well after a critical juncture had closed.

The final point is related to the definition of *legacy*. If I had rigorously applied the definition suggested by Collier and Munck (2017, p. 6) in comparative historical analysis, according to which ‘legacy is an enduring, self-perpetuating institutional heritage of the critical juncture that persists and is stable for a substantial period’, we would not be able to talk about the legacies of the local government system established in 1937/38 because it was not used for a substantial period. If there is no legacy, there is no critical juncture (Collier & Munck, 2017, p. 6), and hence we would not be able to talk about a critical juncture for local government in the 1930s either. The critical juncture and legacies for local government in the interwar period would stem only from 1917. For that reason, I am of the opinion that a looser definition of *legacy* is justified in post-communist studies. Although ‘one of the core puzzles of post-communist transformation literature still relevant today’ is ‘the role of legacies in shaping the institutional choices’ (Sarapuu, 2017), in this study it is relevant not only from the empirical point of view, but also from the methodological perspective. Post-communist studies would benefit a great deal from the

convergence of the legacy explanation with the one used in historical institutionalism, especially when it comes to theory-building based on a large number of case studies.

Limitations of the current study and new avenues for further research

This thesis blended historical institutionalism and comparative historical analysis with the approaches used in post-communist studies. In one sense, this can be seen as a major weakness, particularly as the concept of *legacy* has different meanings in different traditions. On the other hand, while considerable research on the post-communist period has focused only on communist legacies, in the case of Estonia I sought to delve further back to study the impact of the often-idealised interwar period on the post-communist period.

One limitation of this study was its scope due to the need to strike a balance between depth and breadth. If I were to undertake the research again, I would narrow down the focus. However, an advantage of the current approach is that it analysed several aspects and attempted to reduce the risk of overlooking important connections between elements of local government and possible contingencies. In this way, the current study could also ease the work of other scholars studying the same topic, as a general overview of different aspects and periods has been provided, albeit with some lacunae.

I concur with Lussier and LaPorte (2017), who claim that competing conceptions of critical junctures and ‘methodological debates pose real obstacles to theoretical advancement’ (p. 3). The same applies to the legacy concept. Moreover, the significance of the current thesis is reduced due to the fact that various historical institutionalism and post-communist scholars use competing definitions of legacies, making generalisation based on different case studies challenging. For example, when following a critical junctures approach, if we identify a critical juncture in the interwar period that produces an enduring legacy, should we regard its appearance in the post-communist period as a revival of a legacy or an antecedent condition instead, despite the fact that the phenomenon was not present during the communist period?

As institutions are usually interrelated, the current thesis served the purpose of mapping those aspects of Estonian local government that could benefit from further analysis, possibly by delving even further back into history than the current study in order to find even deeper roots for some institutions.

The attempt to address the initial research questions may have raised more questions for further research than it has provided answers. These questions could not be answered within the scope of the current study. Among them, for example, is the question of why the county-level functions have not been transferred to the municipal associations in Estonia. Can this be explained by the path dependence approach? In addition, what explains the limited financial autonomy of local government? Is it mainly due to the Soviet past,

attitudinal legacies, or something else? Clark (2002, p. 44) has indicated that the debate on 'whether values and attitudes facilitate the emergence of democracy or democracy causes a change in political culture' is a part of post-communist studies. The attitudinal legacies and political culture are outside the scope of the current study, but it would be both interesting and challenging to study their role in the context of the interwar and post-communist periods, particularly because in the former period, the power had been mainly held by Baltic Germans, while in the latter the people who had interwar local government experience had largely been eliminated and the people working for the local soviets often continued working for the post-communist local authorities. The cultural variables are more a question of sociological institutionalism than historical institutionalism.

Furthermore, it is sometimes difficult to identify a legacy and the kind of impact it has had. Therefore, from the methodological point of view, Frye (2014), for example, has demonstrated the value of comparison in the case of communist legacies. Using his approach could provide a more solid basis for reaching a conclusion on the impact of institutional legacies on outcomes. This could be conducted at the level of one or two elements due to challenges related to a suitable unit of comparison.

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II Legal acts

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- 1933 Act Amending Rural Municipality Council Elections and Rural Municipality Councils and Governments Organisation Act (*Vallavolikogude valimise ja vallavolikogude ning vallavalitsuste korraldamise seaduse muutmise seadus*), State Gazette 1933, 92, 670.
- 1933 Act Amending the City Council Elections Act (*Linnavolikogude valimise seaduse muutmise seadus*), State Gazette 1933, 92, 669.
- 1934 Act Amending and Specifying the Government Organisation Act (*Valitsemise korraldamise seaduse muutmise ja täiendamise seadus*), State Gazette 1934, 96, 767.
- 1934 Act Amending and Specifying the Legislation related to Local Governments (*Omavalitsustesse puutuvate seaduste muutmise ja täiendamise seadus*), State Gazette 1934, 109, 854.
- 1934 Act on Temporary Governance of the Counties (*Maakondade ajutise valitsemise seadus*), State Gazette 1934, 5, 40.
- 1934 Constitution – Act Amending the Constituion of the Republic of Estonia (*Eesti Vabariigi põhiseaduse muutmise seadus*), State Gazette 1933, 86, 628.
- 1934 Decision of the Minister of the Court and the Interior no 2388, State Gazette, 1934, 26, 202.
- 1934 Decree Amending Rural Municipality Council Election and Rural Municipality Councils and Governments Organisation Act (*Vallavolikogude valimise ja vallavolikogude ja vallavalitsuste korraldamise seaduse muutmise dekreet*), State Gazette 1934, 25, 188.
- 1934 Decree Amending the City Act (*Linnaseaduse muutmise dekreet*), State Gazette 1934, 25, 186.
- 1934 Decree Amending the City Councils Election Act (*Linnavolikogude valimise seaduse muutmise dekreet*), State Gazette 1934, 25, 187.
- 1934 Decree Postponing the Elections of the State Elder and Riigikogu (*Riigivanema ja Riigikogu valimiste edasilükkamise dekreet*), State Gazette 1934, 25, 184.
- 1934 Decree Specifying the Temporary Act on Local Government Supervision (*Omavalitsuse ajutise järelevalve seaduse täiendamise dekreet*), State Gazette 1934, 41, 361.
- 1936 Act Amending the Act on Temporary Governance of the Counties (*Maakondade ajutise valitsemise seaduse muutmise seadus*), State Gazette 1936, 79, 642.
- 1937 Act Extending the Mandate of City, Town and Rural Municipality Councils and the Cultural Council of the German Minority's Cultural Autonomy (*Linna-, alevi- ja vallaomavalitsuste volikogude ja saksa vähemusrühvuse kulturomavalitsuse kultuurnõukogu volituste pikendamise seadus*), State Gazette 1937, 90, 740.
- 1937 Rural Municipality Act (*Vallaseadus*), State Gazette, 1937, 32, 310.
- 1938 City Act (*Linnaseadus*), State Gazette, 1938, 43, 404.
- 1938 Constitution of the Republic of Estonia (*Eesti Vabariigi põhiseadus*), State Gazette 1937, 71, 590.
- 1938 County Act (*Maakonnaseadus*), State Gazette, 1938, 43, 405.
- 1939 City and Rural Municipality Council Term Act (*Linna- ja vallavolikogude volituste tähtaja seadus*), State Gazette 1939, 106, 812.

- 1939 City Councils Election Act (*Linnavolikogude valimise seadus*), State Gazette 1939, 41, 329.
- 1939 Rural Municipality Councils Election Act (*Vallavolikogude valimise seadus*), State Gazette 1939, 41, 330.
- 1940 Act on Discontinuation of Activities of County, City and Rural Municipality Councils (*Maa-, linna- ja vallavolikogude tegevuse lõpetamise seadus*), State Gazette 1940, 83, 783.
- 1940 Act Specifying the Rural Municipality Act (*Vallaseaduse täiendamise seadus*), State Gazette 1940, 77, 744.
- 1940 Constitution of Estonian SSR (*Eesti NSV Konstitutsioon*), State Gazette 1940, 111, 1117.
- 1940 Decision of the Minister of the Interior of 31 July 1940 (*Siseministri otsus 31. juulist 1940*), State Gazette 1940, 89, 890.
- 1940 Decree on Supervisory Regime of Counties, Cities and Rural Municipalities (*Eesti NSV Rahvakomissaride Nõukogu määrus maakondade, linnade ja valdade järelevelvekorra kohta*), State Gazette 1940, 27, 312.
- 1941 Decree on the Establishment of the Local Executive Committees of Cities and Counties (*Eesti NSV ajutise Ülemnõukogu Presiidiumi seadlus linna ja maakonna täitevkomiteede moodustamise kohta*), State Gazette 1941, 10, 108.
- 1941 Regulation on Law Applicable in Estonia (*Eestis kehtiva õiguse määrus*), State Gazette 1941, 2, 8.
- 1942 First Implementing Regulation of Regulation on Establishment of Community Self-Government (*Kogukonnaomavalitsuse sisseseadmise määruse esimene teostatismäärus*), State Gazette, 1942, no 40, p. 497.
- 1942 Regulation on Extending the Powers of Rural Municipality Mayors (*Vallavanemate võimupiiride laiendamise määrus*), State Gazette 1942, no 22, p. 246–247.
- 1943 Regulation on Filling the Posts of City and Rural Municipality Mayors and Their Aides as Honorary Posts (*Linnapeade, vallavanemate ja nende abide ametikohtade auametiliselt täitmise määrus*), State Gazette 1943, 4, 16.
- 1945 Decree on Merging the Rural Municipalities and Rural Municipality Districts of Petseri County of the Estonian SSR with Võru County (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Eesti NSV Petseri maakonna valdade ja vallaosade Võru maakonnaga liitmise kohta*), State Gazette 1945, 5, 58.
- 1945 Decree on Numerical Composition of Executive Committees of Cities and Rural Municipalities Subordinated to the County Level (*Eesti NSV Ülemnõukogu Presiidiumi seadlus maakondliku alluvusega linnade ja valdade täitevkomiteede arvulise koosseisu kohta*), State Gazette 1945, 4, 46.
- 1945 Decree on the Establishment of Village Soviets of People's Deputies in the Estonian SSR (*ENSV Ülemnõukogu Presiidiumi seadlus küla töörahva saadikute nõukogude loomise kohta Eesti Nõukogude Sotsialistlikus Vabariigis*), State Gazette 1945, 18, 256.
- 1945 Regulation on Reinforcement of Village Soviets of Estonian SSR (*Eesti NSV Rahvakomissaride Nõukogu ja Eestimaa Kommunistliku (bolševike) Partei Keskkomitee määrus Eesti NSV küla töörahva saadikute nõukogude tugevdamise kohta*), State Gazette 1945, 38, 593.

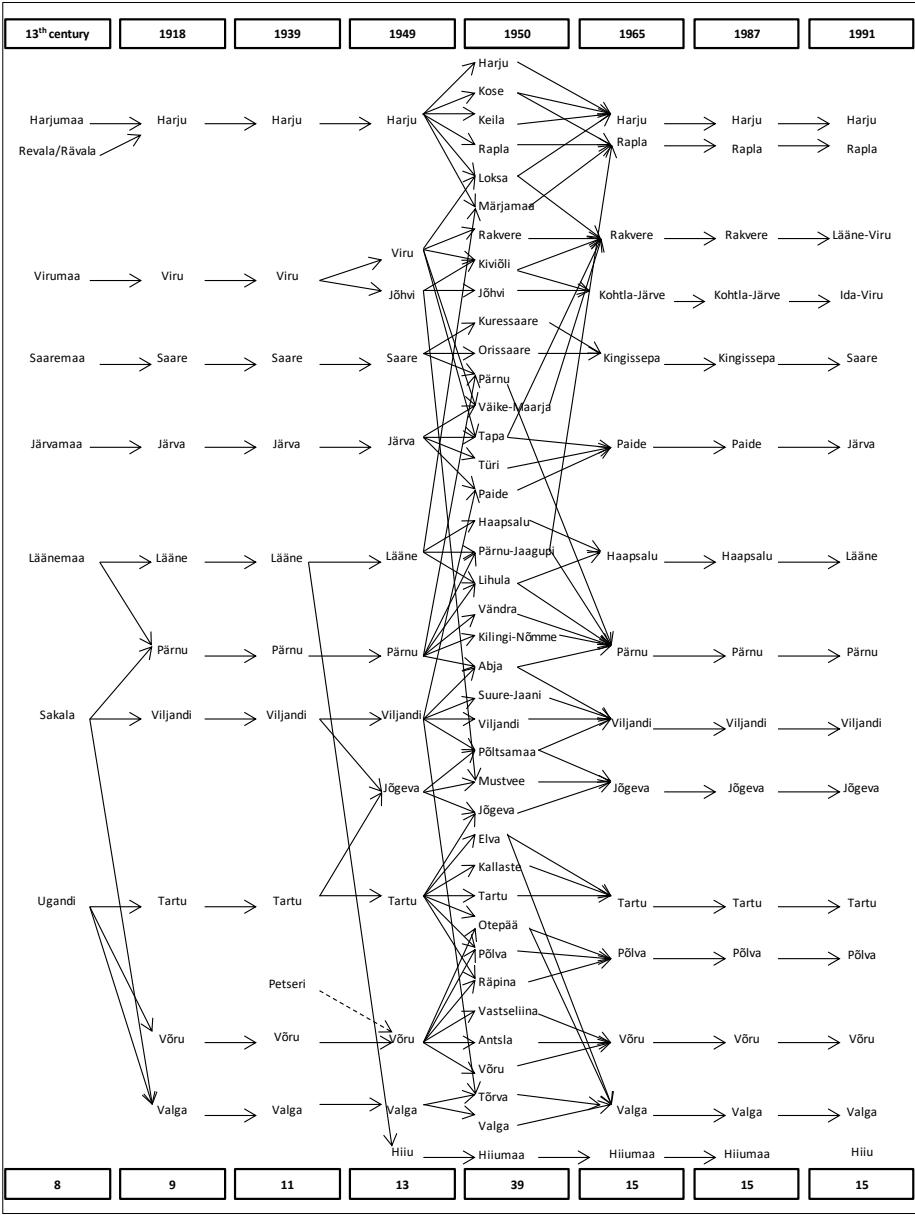
- 1945 Statute of the Deputies of Village Soviets (*Külanõukogude volinike põhimäärus*), State Gazette 1945, 38, 593.
- 1949 Decree on the Establishment of Jõgeva County (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Jõgevamaa moodustamine kohta*). State Gazette, 1949, 9, 51.
- 1949 Decree on the Establishment of Jõhvi County and Merging the City of Tapa and some Rural Municipalities and Village Soviets with Viru County (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Jõhvimaa moodustamise ja Tapa linna ning mõnede valdade ja külanõukogude ühendamise kohta Virumaaga*). State Gazette 1949, 9, 52.
- 1954 Decree on Merging Village Soviets of the Estonian SSR (*Eesti NSV Ülemnõukogu Presiidiumi seadlus Eesti NSV külanõukogude ühendamisest*). State Gazette 1954, 10, 104.
- 1978 Constitution of the Estonian SSR (*Eesti Nõukogude Sotsialistliku Vabariigi konstitutsioon (põhiseadus)*). (1978). Tallinn: Eesti Raamat.
- 1979 ESSR Act on the Estonian SSR Raion Soviet (*Eesti Nõukogude Sotsialistliku Vabariigi seadus Eesti NSV rajooni rahvasaadikute nõukogu kohta*), State Gazette 1979, 50, Annex, pp. 3–30.
- (1987) Act on the City and City Raion Soviet of the Estonian SSR as of 1987 (*Eesti Nõukogude Sotsialistliku Vabariigi seadus Eesti NSV linna ja linnarajooni rahvasaadikute nõukogu kohta*). Tallinn: Eesti Raamat
- 1989 Act on Principles of Economic Autonomy for Estonian SSR (*Eesti Nõukogude Sotsialistliku Vabariigi seadus Eesti NSV isemajandamise alused*), State Gazette 1989, 18, 223.
- 1989 Decision on the Implementation of Administrative Reform of 8 August 1989 (*otsus haldusreformi läbiviimisest Eesti NSV-s*), State Gazette 1989, 26, 348.
- 1989 Decree on the Creation of an Administrative System Based on Local Government (*Seadlus omavalitsusliku haldussüsteemi loomisest*), State Gazette 1989, 40, 614.
- 1989 Local Government Fundamentals Act (*Kohaliku omavalitsuse aluste seadus*), State Gazette 1989, 34, 517.
- 1989 Local Soviets Election Act (*Eesti NSV kohalike rahvasaadikute nõukogude valimisseadus*), State Gazette 1989, 26, 346.
- 1989 Taxation Act (*Maksukorralduse seadus*), State Gazette 1989, 41, 648.
- 1990 Act on Estonian Symbols (*Eesti Nõukogude Sotsialistliku Vabariigi seadus Eesti sümboolikast*), State Gazette 1990, 14, 239.
- 1990 Decision on National Status of Estonia (*Eesti NSV Ülemnõukogu otsus Eesti riiklikust staatusest*), State Gazette 1990, 12, 180.
- 1990 Decree on the Status of Local Government Senior Officials (*Seadlus kohaliku omavalitsuse juhtivtöötajate staatuse kohta*), State Gazette 1990, 14, 236.
- 1990 Regulation on the Restoration of the Association of Estonian Cities and the Association of Municipalities of Estonia (*Eesti NSV Valitsuse määrus Eesti Linnade Liidu ja Eesti Maaomavalitsuste Liidu tegevuse taastamise kohta*), State Gazette 1990, 8, 136.
- 1991 Regulation on Approval of “Statute of the administrative reform committee” (*Eesti Vabariigi Valitsuse määrus “Eesti Vabariigi Valitsuse haldureformi komitee põhimääruse” kinnitamise kohta*), State Gazette 1991, 22, 265.
- 1991 Regulation on establishing local taxes (*Kohalike maksude kehtestamise kord*), State Gazette 1991, 35, 436.

- 1992 Constitution of the Republic of Estonia (*Eesti Vabariigi põhiseadus*), State Gazette 1992, 26, 349.
- 1993 County Administration Act (*Maakonna valitsemiskorralduse seadus*), State Gazette I 1993, 51, 696.
- 1993 Local Government Organisation Act (*Kohaliku omavalitsuse korralduse seadus*), State Gazette I 1993, 37, 558.
- 1993 Parliament Decision 'Drafting of legal acts regarding local government' (*Riigikogu otsus 'Kohalikku omavalitsust käsitlevate seaduste väljatöötamine'*), State Gazette I 1993, 25, 434.
- 1996 Decision No 715 of the President of the Republic (*Vabariigi Presidendi 7. mai 1996. a otsus nr 715*), State Gazette I 1996, 31, 632.
- 2002 Local Government Council Election Act of 2002 (*Kohaliku omavalitsuse volikogu valimise seadus*), State Gazette I 2002, 36, 220. The act annulled the Local Government Election Act of 1996.
- 2005 Decision No. 848 of the President of the Republic (*Vabariigi Presidendi otsus "Riigikogu töökorra seaduse muutmise seaduse" väljakuulutamata jätmine*), State Gazette I 2005, 62, 889.

III Judgements of the Supreme Court of Estonia

- Judgment of the Constitutional Review Chamber of the Supreme Court of 4 November 1993, No. III-4/A-4. Available at: <https://www.riigikohus.ee/en/constitutional-judgment-III-4A-4>
- Judgement of the Constitutional Review Chamber of the Supreme Court of 15 July 2002, No. 3-4-1-7-02. Available at: <https://www.riigikohus.ee/en/constitutional-judgment-3-4-1-7-02>
- Judgement of the Constitutional Review Chamber of the Supreme Court of 14 October 2005, No. 3-4-1-11-05. Available at: <https://www.riigikohus.ee/en/constitutional-judgment-3-4-1-11-05>
- Judgement of the Supreme Court of Estonia en banc of 19 April 2005, No. 3-4-1-1-05. Available at: <https://www.riigikohus.ee/en/constitutional-judgment-3-4-1-1-05>
- Judgement of the Supreme Court of Estonia en banc of 16 March 2010, No. 3-4-1-8-09. Available at: <https://www.riigikohus.ee/en/constitutional-judgment-3-4-1-8-09>
- Judgement of the Constitutional Review Chamber of the Supreme Court of 20 December 2016. No. 3-4-1-3-16. Available at: <https://www.riigikohus.ee/en/constitutional-judgment-3-4-1-3-16>

APPENDIX A: COUNTIES (13TH CENTURY, 1918, 1939, 1949, AND 1991) AND RAIONS (1950, 1965, AND 1987)



Source: Author, based on Uuet (2002).

The Figure not only demonstrates the splitting and merging of counties and raions, but also how their names have changed or remained unchanged. For the purposes of clarity, the Figure does not reflect the changes which concern only one or two village soviets. The numbers at the base of the Figure indicate the number of counties/raions in a specific year.

APPENDIX B: FINANCIAL INDICATORS

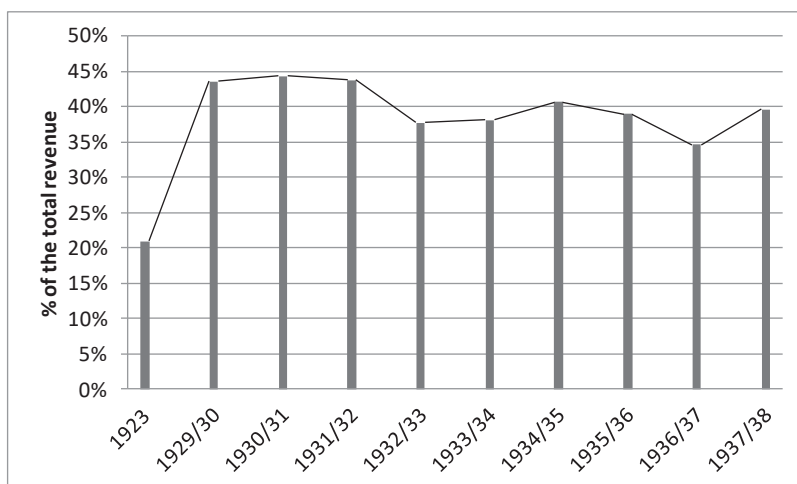


Figure B1 The share of head tax within the rural municipalities' total revenue during selected years of the interwar period
Note. Based on data from Riigi Statistika Keskbüroo (1937) and Feldman (1939).

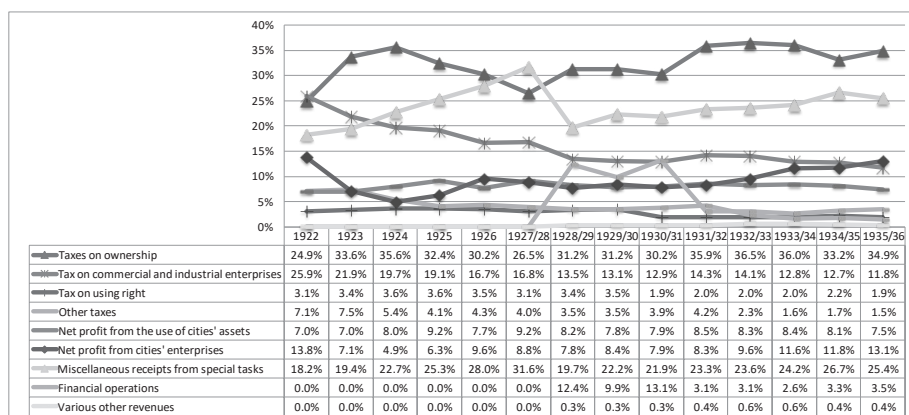


Figure B2 Cities – revenue structure (ordinary revenue), 1922–1935/36
Note. Based on data from Neuhaus (1927a, 1929), Riigi Statistika Keskbüroo (1937), and Feldman (1938c).
 As the nomenclature was changed starting in the financial year 1936/37, the years after 1935/36 are not reflected in Figure B2.

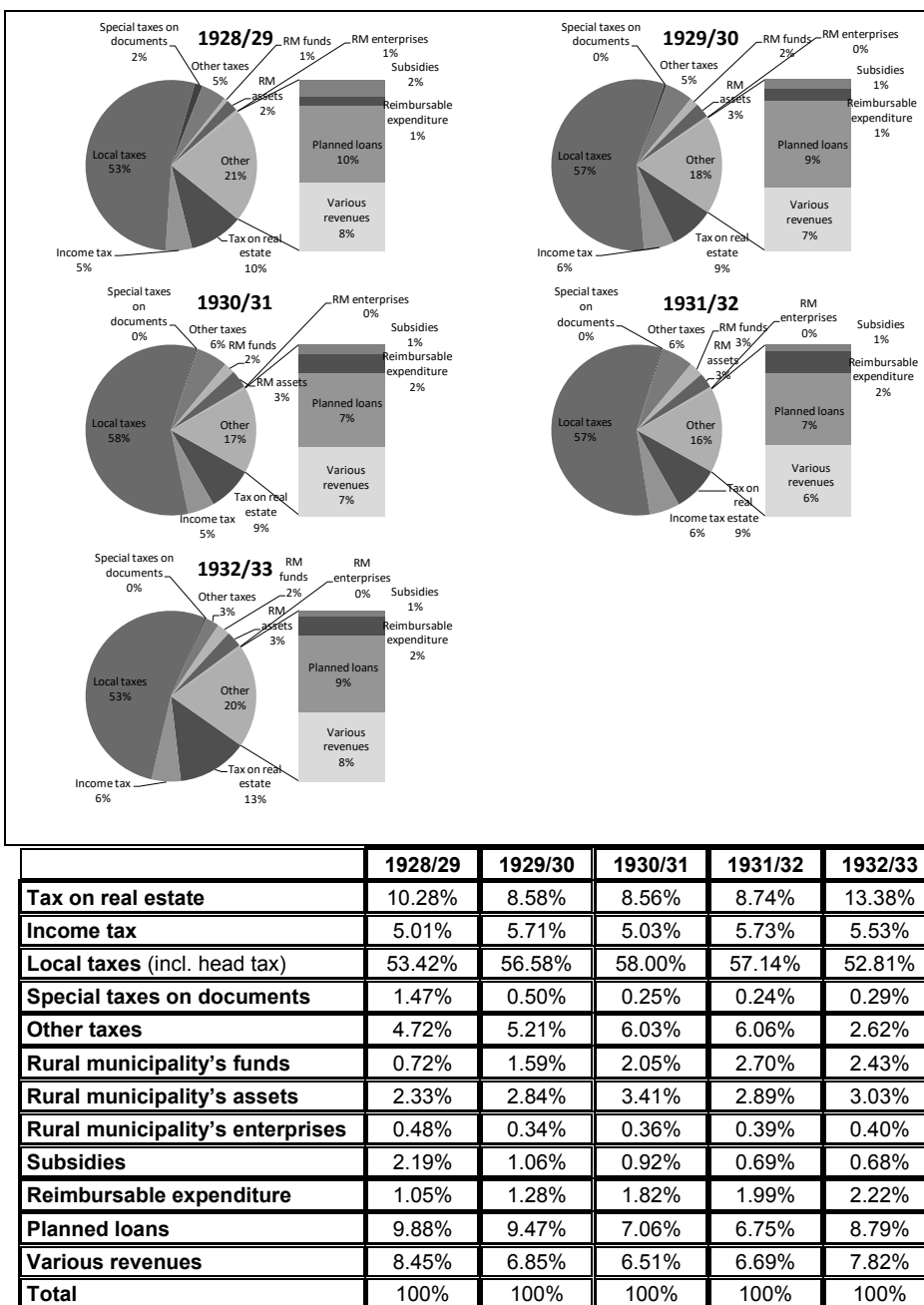


Figure B3 Rural municipalities – revenue structure (ordinary revenue), 1928/29–1932/33

Note. Based on data from Riigi Statistika Keskbüroo (1937).

In the case of rural municipalities, the Statistical Office started to collect detailed data only in 1927 and the nomenclature changed starting in the financial year 1934/35.

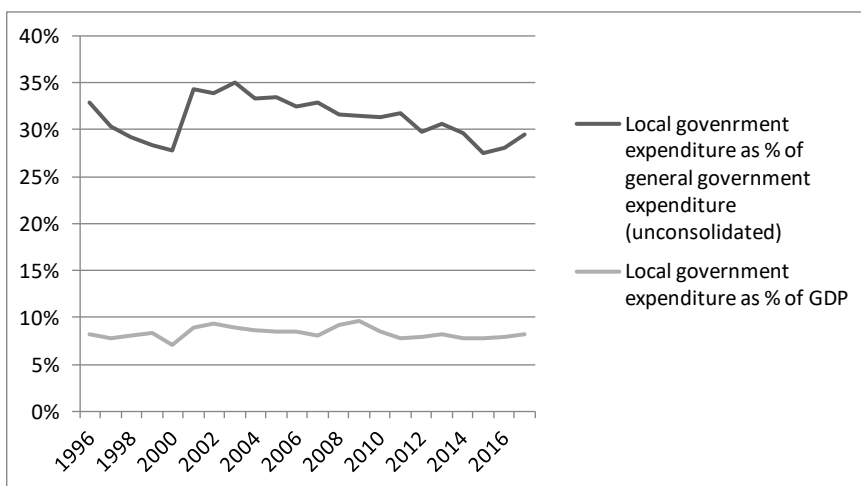


Figure B4 Local government expenditure as share of general government expenditure and GDP, 1996–2017

Note. Based on data from the Ministry of Finance.

Table B1 Local government revenue structure, 1997–2002

<i>Indicator</i>	1997	1998	1999	2000	2001	2002
Local budget income						
..individual income tax	48.12%	49.07%	47.83%	46.54%	36.16%	34.87%
..other taxes	5.29%	5.02%	4.91%	5.64%	4.33%	4.01%
..state fees	0.01%	0.01%	0.01%	0.01%	0.00%	0.02%
..miscellaneous income	1.01%	0.37%	0.46%	0.50%	0.71%	0.81%
..revenue from property	5.83%	5.48%	5.59%	10.01%	14.85%	10.65%
..financial income	0.40%	0.48%	0.25%	0.10%	0.31%	0.12%
..income from economy	3.42%	3.71%	3.62%	3.85%	2.97%	5.64%
Residue to cover the expenses	4.32%	2.35%	2.45%	2.03%	1.63%	3.09%
Settlements of accounts and transfers (incl. subsidies from state budget)	23.66%	25.63%	26.07%	23.37%	32.25%	33.11%
Loans	7.93%	7.87%	8.51%	7.92%	6.77%	7.62%
Total	100%	100%	99%	99%	99%	99%

Note. Based on data from stat.ee.

Table B2 Local government revenue structure (primary revenue), 2003–2015

<i>Indicator</i>	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Taxes	46.48%	52.62%	52.56%	55.53%	58.33%	59.37%	58.18%	56.10%	57.39%	58.10%	59.61%	61.24%	61.22%
- personal income tax	41.97%	47.72%	47.87%	51.28%	54.34%	54.88%	53.33%	50.44%	51.04%	52.67%	54.47%	56.22%	56.51%
- land tax	3.84%	4.10%	3.80%	3.39%	3.05%	3.61%	4.06%	4.43%	4.25%	4.64%	4.32%	4.15%	3.83%
- local taxes	0.67%	0.81%	0.89%	0.86%	0.94%	0.88%	0.79%	1.23%	2.10%	0.79%	0.82%	0.87%	0.87%
Income from economical activities and property	11.60%	12.10%	11.48%	10.70%	9.86%	10.50%	11.70%	12.00%	11.89%	12.43%	11.20%	11.49%	11.23%
Received grants for current activities	36.97%	33.82%	34.14%	31.75%	29.93%	28.46%	28.26%	30.00%	28.80%	27.41%	27.55%	25.96%	26.32%
- equalization fund	9.61%	8.03%	7.14%	7.49%	7.91%	6.86%	5.92%	6.07%	6.01%	5.73%	5.57%	5.32%	4.99%
- block grant from State Budget	18.60%	20.55%	21.94%	20.25%	17.93%	17.93%	18.58%	19.87%	18.78%	17.68%	17.33%	16.54%	18.04%
- other grants for current activities	8.76%	5.24%	5.05%	4.02%	4.09%	3.67%	3.76%	4.06%	4.01%	4.01%	4.65%	4.10%	3.29%
Other primary revenue	4.95%	1.46%	1.83%	2.02%	1.88%	1.68%	1.85%	1.90%	1.92%	2.06%	1.63%	1.31%	1.23%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Note: Based on data from fin.ee.

APPENDIX C: OVERVIEW OF THE ELECTION RULES

Table C1 *Summary of the major changes introduced by the legislative reforms regarding the local elections 1917–1939*

The act (and adoption date)	Temporary regulations ¹ (April/July 1917)	Regulation RME ² (amending the rules of 1917) (20 Jan 1919)	Regulation on CE ³ (amending the rules of 1917) (4 March 1919)	Regulation on CE ¹ (amending the rules of 1917) (6 Sept 1920)	Act on RME ⁵ (4 April 1921)	Act on CE ⁶ (16 Nov 1926)	Act on RME ⁷ (7 Dec 1926)	Amendments to the CE act ⁸ and the RME ⁹ act (10 Nov 1933)	Act on CE and Act on RME ¹⁰ (1939)
Element Elections	City	Aug 1917	May 1919	Feb. 1921, Dec. 1923		Dec 1926 / Jan 1927, Dec 1929		Jan 1934	Oct 1939
	RM	Aug/Sept 1917	Mar 1919	February 1921	December 1923		Feb 1927, March 1930	Jan 1934	Oct 1939
Election day	Sunday	Sunday	Sunday	Saturday and Sunday ¹	Two days (must include Sunday)	Saturday and Sunday	Sunday and Monday	Sunday and Monday	2 days (1 st day is Sun or holiday)
Voting right	Age limit: 20; RM: place of residence in the RM; C: place of residence or work in the city	Age limit: 20; Place of residence in the municipality	Age limit: 20; Place of residence or place of work in the municipality	Age limit: 20; Place of residence or place of work in the municipality	Age limit: 20; Place of residence or place of work in the municipality	Age limit: 20; Place of residence in the municipality	Age limit: 20; Place of residence or place of work in the municipality	[Not changed]	22 years old, min 2 years of permanent residence or work in the municipality
Eligibility for nomination	Voting right, no residence requirement				Candidate's name must be in the voters' list of the respective municipality				Min 25 years old
Voting for	A closed list		A list, option to underline a name in list		A closed list		A list, option to underline a name in list		Multiple candidate choice
Supporting signatures for the lists	10 signatures per a list			A number of signatures equal to ½ of the number of seats	10 signatures per list	Minimum 5 signatures per list	Minimum 5 signatures per list	C: minimum 3 signatures per list; RM: minimum 2 signatures	5-15 signatures per a candidate

C- city; RM - rural municipality; CE - city elections; RME - rural municipality's elections

¹ Temporary Regulations on Elections of Estonia's Rural Municipalities' Councils (*Eesti wallanõukogude valimiste ajutised määrused*), Eestimaa Kubermangu Teataja 1917, 32, and Temporary Regulations on City Council Elections, VSKK 1917, 95, 529.

² Regulation on Election of Rural Municipalities Authorities (*Määrus vallavalitsuste asutuste valimiste kohta*), State Gazette 1919, 4, 7.

³ Regulation on City Councils Election (*Määrus linnavolikogude valimiste kohta*), State Gazette 1919, 14, 33.

⁴ Act on City Councils Elections (*Seadus linnavalikogude valimiste kohta*), State Gazette 1920, 147/148, 311.

⁵ Act on Rural Municipality Councils Election (*Seadus vallanõukogude valimise kohta*), State Gazette 1921, 26, 18.

⁶ City Councils Election Act (*Linnavalikogude valimise seadus*), State Gazette 1926, 84, 89.

⁷ Rural Municipality Council Election and Rural Municipality Councils and Governments Organisation Act (*Vallavalikogude valimise ja vallavalikogude ning vallavalitsuste korraldamise seadus*), State Gazette 1926, 97, 104.

⁸ Act amending City Councils Election Act (*Linnavalikogude valimise seaduse muutmise seadus*), State Gazette 1933, 92, 669.

⁹ Act amending Rural Municipality Council Election and Rural Municipality Councils and Governments Organisation Act (*Vallavalikogude valimise ja vallavalikogude ning vallavalitsuste korraldamise seaduse muutmise seadus*), State Gazette 1933, 92, 670.

¹⁰ City Councils Election Act (*Linnavalikogude valimise seadus*), RT 1939, 41, 329, and Rural Municipalities Councils Election Act (*Vallavalikogude valimise seadus*), State Gazette 1939, 41, 330.

¹¹ Act on amending City Council Election Act (*Seadus „Linnavalikogude valimise seaduse” muutmise kohta*), State Gazette 1921, 3, 22.

Table C2

Overview of the main elements of local elections regulation 1989–2017

The act (and adoption date) Element	Local Election Act (8 August 1989) ¹	Local Government Council Election Act (19 May 1993) ²	Local Government Council Election Act (16 May 1996) ³	Local Government Council Election Act (27 March 2002) ⁴	Local Government Council Election Act (27 March 2002) as amended	Local Government Council Election Act (27 March 2002) as amended	Local Government Council Election Act (27 March 2002) as amended	Local Government Council Election Act (27 March 2002) as amended
Elections	10 December 1989	17 October 1993	20 October 1996	20 October 2002	16 October 2005	18 October 2009	20 October 2013	15 October 2017
Election day	Determined by Supreme Council							
Term	5 years	3 years			4 years			
Right to vote	At least 18 years old Estonian SSR citizen, who is living in the territory of the respective municipality	Age limit: 18 yrs. Estonian citizen with permanent residence in the municipality or an alien, who resides in Estonia legally and has been living in the territory of the respective municipality for at least five years	Age limit: 18 yrs Estonian (or EU citizen)* with permanent residence in the municipality or an alien who resides in Estonia legally and has been living in the territory of the respective municipality for at least five years	Age limit: 18 yrs Estonian (or EU citizen)* with the right to vote, whose permanent residence is as of 1 August of the election year in the respective municipality.	Age limit: 18 yrs Estonian (or EU citizen)* with permanent residence in the municipality or an alien who resides in Estonia legally and has a permanent residence in the municipality	Age limit: 18 yrs Estonian (or EU citizen)* with permanent residence in the municipality or an alien who resides in Estonia legally and has a permanent residence in the municipality	Age limit: 18 yrs Estonian (or EU citizen)* with the right to vote, whose permanent residence is as of 1 August of the election year in the respective municipality.	Age limit: 16 yrs Estonian (or EU citizen) with permanent residence in the municipality or an alien who resides in Estonia legally and has a permanent residence in the municipality
Right to stand as a candidate	At least 18 years old Estonian SSR citizen, who is living in the territory of the respective municipality	At least 18 yrs old Estonian citizen, living in the territory of the respective municipality and whose Estonian proficiency meets the requirements of the Language Act	At least 18 yrs old Estonian citizen, living in the territory of the municipality, Estonian language proficiency level sufficient to participate in the council work.	Every Estonian (or EU citizen)* with the right to vote, whose permanent residence is as of 1 August of the election year in the respective municipality.	Every Estonian (or EU citizen)* with the right to vote, whose permanent residence is as of 1 August of the election year in the respective municipality.	Every Estonian (or EU citizen)* with the right to vote, whose permanent residence is as of 1 August of the election year in the respective municipality.	Every Estonian (or EU citizen)* with the right to vote, whose permanent residence is as of 1 August of the election year in the respective municipality.	Every Estonian (or EU citizen) with the right to vote, whose permanent residence is as of 1 August of the election year in that municipality and is at least 18 years old.
Voting for	The first preference and also marks the candidates he/she is willing to transfer the vote to	One candidate	One candidate	One candidate	One candidate	One candidate	One candidate	One candidate
Electoral district	Single or multimandate district	Multimandate district	Multimandate district	Multimandate district	Multimandate district	Multimandate district	Multimandate district	Multimandate district
Open/closed list	Open (single transferable vote method)	Open (list mandate)	Open (simple quota and list mandate)	Open (simple quota and list mandate)	Open (simple quota and list mandate)	Open (simple quota and list mandate)	Open (simple quota and list mandate)	Open (simple quota and list mandate)
Signatures for the lists or ball	Supporting signatures used	Not used	Not used	Not used	Not used	Not used	Not used	Not used

* The European Union citizens' right to vote and stand as a candidate was set in the legislation, but the provision came into effect only after Estonia joined the EU.

¹ Local Soviets Election Act (*Eesti NSV kohalike rahvasaadikute nõukogude valimisseadus*), State Gazette 1989, 26, 346.

Appendix C: Overview of the election rules

² Local Government Council Election Act (*Kohaliku omavalitsuse volikogu valimise seadus*), State Gazette 1993, 29, 505; repealed in State Gazette I 1996, 37, 739.

³ Local Government Council Election Act (*Kohaliku omavalitsuse volikogu valimise seadus*), State Gazette I 1996, 37, 739; repealed in State Gazette I 2002, 36, 220.

⁴ Local Government Council Election Act (*Kohaliku omavalitsuse volikogu valimise seadus*), State Gazette I 2002, 36, 220.

APPENDIX D: LIST OF PRIME MINISTERS AND MINISTERS OF THE INTERIOR

List of Prime Ministers and Ministers of the Interior 1918 – 1940

	Dates	Prime Minister / State Elder	Minister of Interior ^a
1	24/02/1918 – 12/11/1918	Konstantin Päts	Konstantin Päts
2	12/11/1918 – 27/11/1918	Konstantin Päts	Konstantin Päts
3	27/11/1918 – 09/05/1919	Konstantin Päts	August Peet
4	09/05/1919 – 18/11/1919	Otto Strandman	Aleksander Oinas (until 18 July); Aleksander Hellat (from 25 July)
5	18/11/1919 – 28/07/1920	Jaan Tõnisson	Aleksander Hellat
6	28/07/1920 – 30/07/1920	Ado Birk	Karl Einbund (Kaarel Eenpalu)
7	30/07/1920 – 26/10/1920	Jaan Tõnisson	Karl Einbund (Kaarel Eenpalu)
8	26/10/1920 – 25/01/1921	Ants Piip	Lui Olesk
9	25/01/1921 – 21/11/1922	Konstantin Päts	Karl Einbund (Kaarel Eenpalu)
10	21/11/1922 – 02/08/1923	Juhan Kukk	Karl Einbund (Kaarel Eenpalu) (from 07/04/1923)
11	02/08/1923 – 26/03/1924	Konstantin Päts	Karl Einbund (Kaarel Eenpalu)
12	26/03/1924 – 16/12/1924	Friedrich Karl Akel	Theodor Rõuk
13	16/12/1924 – 15/12/1925	Jüri Jaakson	Karl Einbund (Kaarel Eenpalu)
14	15/12/1925 – 23/07/1926	Jaan Teemant	Karl Einbund (Kaarel Eenpalu)
15	23/07/1926 – 04/03/1927	Jaan Teemant	Heinrich Laretei (until 12/11/1926) Jaan Soots (acting, from 13/11/1926)
16	04/03/1927 – 09/12/1927	Jaan Teemant	Jaan Hünerson
17	09/12/1927 – 04/12/1928	Jaan Tõnisson	Jaan Hünerson
18	04/12/1928 – 09/07/1929	August Rei	Tõnis Kalbus
19	09/07/1929 – 12/02/1931	Otto Strandman	Tõnis Kalbus (until 12/04/1930) Ado Anderkopp (from 12/04/1930)
20	12/02/1931 – 19/02/1932	Konstantin Päts	Jaan Hünerson (until 20/11/1931) Johan Reinhold (Raid) (from 20/11/1931)
21	19/02/1932 – 19/07/1932	Jaan Teemant	Ado Anderkopp
22	19/07/1932 – 01/11/1932	Karl Eenpalu (Kaarel Einbund)	Ado Anderkopp
23	01/11/1932 – 18/05/1933	Konstantin Päts	Ado Anderkopp
24	18/05/1933 – 21/10/1933	Jaan Tõnisson	Vladimir Rooberg (Roopere) (until 03/10/1933) Ernst Heinrich Ein (from 04/10/1933)
25	21/10/1933 – 24/04/1938	Konstantin Päts	Johan Müller (until 25/08/1934) Kaarel Eenpalu (Karl Einbund) (25/08/1934 – 09/05/1938)
26	09/05/1938 – 12/10/1939	Karl Eenpalu (Kaarel Einbund)	Richard Veerma (Veerman)
27	12/10/1939 – 21/06/1940	Jüri Uluots	August Jürima (Jüriman(n))

^a In July 1929 the Ministry of the Interior and the Ministry of the Court were merged, and in April 1934 the two Ministries were separated. Therefore, for five years, there was a Minister of the Court and the Interior instead of a Minister of the Interior.

List of Prime Ministers and Ministers of the Interior or of Regional Affairs

1990–2017

	Dates	Prime Minister	Minister responsible for local government or regional development
1*	03/04/1990–30/01/1992	Edgar Savisaar	Olev Laanjärv
2*	30/01/1992–21/10/1992	Tiit Vähi	Robert Närska
3	21/10/1992–08/11/1994	Mart Laar	Lagle Parek (until 27/11/1993) Heiki Arike (from 14/12/1993)
4	08/11/1994–17/04/1995	Andres Tarand	Kaido Kama
5	17/04/1995–06/11/1995	Tiit Vähi	Edgar Savisaar (until 10/10/1995) Tiit Vähi (from 11/10/1995)
6	06/11/1995–17/03/1997	Tiit Vähi	Märt Rask (until 01/12/1996) Riivo Sinijärv (from 01/12/1996)
7	17/03/1997–25/03/1999	Mart Siimann	Peep Aru
8	25/03/1999–28/01/2002	Mart Laar	Toivo Asmer
9	28/01/2002–10/04/2003	Siim Kallas	Toivo Asmer
10	10/04/2003–13/04/2005	Juhan Parts	Jaan Õunapuu (from 13/04/2004)
11	13/04/2005–05/04/2007	Andrus Ansip	Jaan Õunapuu
12	05/04/2007–06/04/2011	Andrus Ansip	Vallo Reimaa (until 22/01/2008) Siim-Valmar Kiisler (from 23/01/2008)
13	06/04/2011–26/03/2014	Andrus Ansip	Siim-Valmar Kiisler
14	26/03/2014–09/04/2015	Taavi Rõivas	Hanno Pevkur (until 02/07/2014)
15	09/04/2015–23/11/2016	Taavi Rõivas	Arto Aas
16	23/11/2016–....	Jüri Ratas	Mihhail Korb (until 11/06/2017) Jaak Aab (since 12/06/2017)

* Transitional government

APPENDIX E: INFORMATION ON THE INTERVIEWS

Interviewees

Date of the interview	Background of the interviewee
21 September 2010	The last chairman of the executive committee (1988–1991) and the first mayor of a small city (1991–1992)
23 September 2010	The last chairman of the executive committee (1990) and the first mayor (1991–1993) of a small city
16 December 2010	The first mayor of a republic city
7 February 2011	Deputy chairman of a raion executive committee, who continued working in the county government
8 February 2011	Head of raion financial department

Interview themes

- The background of the interviewee;
- The efforts and history of gaining the status of local municipality;
- Relationships either between the local soviet and raion in various policy fields (finance, education, etc.) or between raion and the central government;
- The mayor being also the chair of the council
- The changes in personnel and in tasks; and
- The development of legislation (in case the interviewee was involved in the process).

